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The situation in Central America: procedures for the establishment of a firm and lasting peace and progress in fashioning a region of peace, freedom, democracy and development

United Nations Verification Mission in Guatemala

Note by the Secretary-General**

1. The attached document contains the report on Human Rights of the United Nations Verification Mission in Guatemala (MINUGUA) on the verification of compliance with the Comprehensive Agreement on Human Rights. In accordance with the practice established since the Mission's inception, I shall convey a copy of this report to the United Nations High Commissioner for Human Rights, with the request that it be transmitted to the members of the Commission on Human Rights.

2. The report, which is being transmitted by the acting head of the Mission, is the eleventh on the subject, and covers the period from 1 December 1999 to 30 June 2000, during which the Mission continued to carry out its work and verify compliance with the commitments of all the Peace Agreements. The results of the verification of compliance with the Agreements were reported to the General Assembly on 26 July 2000 (see A/55/175).

3. I wish to reiterate my thanks to the Government of Guatemala and President Alfonso Portillo, who assumed office on 14 January 2000, and to the Unidad Revolucionaria Nacional Guatemalteca (URNG) for their cooperation with the Mission, without which it would have been unable to function. I also wish to express my gratitude for the ongoing collaboration and support for the peace process provided by Member States and the United Nations system in Guatemala.

* A/55/150 and Corr.1 and 2.
** The present report covers the verification period up to 30 June 2000 and includes qualitative analysis of policies and trends of the period verified.

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Annex

Eleventh report on human rights of the United Nations Verification Mission in Guatemala

I. Introduction and context

1. During the period covered by this report (1 December 1999 to 30 June 2000), the United Nations Verification Mission in Guatemala (MINUGUA) continued to verify compliance with all the Peace Agreements signed between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG). Among the Agreements, the Mission verifies compliance with the Comprehensive Agreement on Human Rights, signed on 29 March 1994 (A/48/928-S/1994/448, annex I) and with the human rights aspects of the Agreement on Identity and Rights of Indigenous Peoples, signed on 31 March 1995 (A/49/882-S/1995/256, annex). This report also refers to the commitments under the Comprehensive Agreement which were not included in the Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements (A/51/796-S/1997/114, annex I).

2. In order to permit continuity of statistical comparison with previous reports on human rights, the figures on complaints received and the results of verification of the complaints will cover a period of nine months, from 1 October 1999 to 30 June 2000 (see appendix). Issues arising from the follow-up to the recommendations of the Commission for Historical Clarification (see A/53/928, annex) were dealt with in the Mission's fifth report on the verification of compliance with the Peace Agreements (see A/55/175, paragraphs 20 to 22).

3. During the period under review, the first elections since the signing of the Agreement on a Firm and Lasting Peace (A/51/796-S/1997/114, annex II), were held with the participation of URNG as a political party. These elections, involving the entire national political spectrum, represented a milestone in the consolidation of democracy in Guatemala. The change of political leadership in the framework of a democratic electoral process is a further manifestation of the consolidation of the rule of law and of the expansion of political spaces, the closing of which has been regarded by the signatories to the Agreements as one of the historical causes of the armed confrontation.

4. On 14 January, Alfonso Portillo, the candidate for the Frente Republicano Guatemalteco (FRG), became president. In his inaugural speech, he stressed that the primary thrust of his policy would be to strengthen democracy and national reconciliation. He said that human rights would be a central theme in his administration, and that the overhauling of the administration of justice and the fight against impunity, within the framework of the Peace Agreements, should not be further postponed. He also underscored his intention to take up the recommendations of the reports of the Clarification Commission and the Project for the Recovery of Historical Memory (REMHI) as Government commitments. In his inaugural statement, the President of the legislature, for his part, agreed that the Peace Agreements must be made to work and that consensus must be reached so as to formulate a legislative agenda which would seek, among other things, to promote reconciliation and justice. In May, the new Secretary of the Peace Secretariat, Mr. Rubén Calderón, presented the Strategic Guidelines for the Implementation of the Peace Agreements, which consider establishing a Foundation for Peace and Harmony and the immediate restructuring of the National Compensation Programme as strategic commitments (see A/55/175, paragraph 11).

5. On 3 March, Victor Hugo Godoy, President of the Presidential Human Rights Committee (COPREDEH), informed the Inter-American Commission on Human Rights (IACHR) that the Government intended to ratify certain international human rights treaties and that it was prepared to recognize the State's responsibility in 52 cases of human rights violations that were before the Commission. He outlined the steps which the Government was planning to take in the areas of strengthening of the justice system, penal and military policy, reparation to victims and international human rights policy, noting that he was outlining the Government's new policy. The State also acknowledged its responsibility in the cases of Myrna Mack, the Dos Erres massacre and the death of the minor, Marcos Fidel Quiquinay. During the period under review, the Government began discussions with the petitioners to the Inter-American Commission, in

search of the amicable solutions envisaged under the pact of San José.

6. In the November 1999 elections, the Frente Revolucionario Guatemalteco won an absolute majority in Congress, obtaining 63 of the 113 contested seats. Since all political parties represented in Congress expressed their commitment to the Peace Agreements during the campaign, the Mission believes that there is an excellent chance to move forward in a spirit of consensus with the deferred legislative agenda arising from the Agreements. In particular, it is hoped that legal provisions will be adopted on human rights issues, such as the amendment of the Elections and Political Parties Act, the Arms and Munitions Act, laws regulating the civil service, private security companies, State intelligence agencies, the characterization of discrimination and sexual harassment as offences, and the law establishing the National Women's Institute. The Government must also take steps to include the provisions of the Convention on the Rights of the Child into domestic legislation.

7. During the period under review, it was again noted that the lack of public security is perceived by the public as a major threat to the enjoyment of fundamental rights. Growing public criticism of the police was particularly evident in May 2000 when the police failed to control disturbances which broke out during a protest against the increase in public transportation fares in the capital, leading to the dismissal of the Director of the National Civil Police. On 21 March, Congress adopted Decree No. 8-2000 authorizing the Military Police to assist the National Civil Police in public security functions. On 7 June, it adopted Legislative Decree No. 40-2000 and an act concerning support to the civil security forces, authorizing the army to collaborate with civil security forces in the fight against crime (see A/55/175, paragraph 82).

8. The Mission believes that the Government should, as a matter of urgency, take the necessary steps to fulfil its duty of guaranteeing the security of Guatemalans. It is deeply concerned that the fulfilment of commitments under the Agreements in this area has been postponed and that higher priority has been given to measures which run counter to the demilitarization of society, delay the restructuring of the army and undermine the civilian power of the State. The Mission draws attention to the impact that such measures have had in the past, when the army was put in charge of public security, taking over from the civil authorities and the National Civil Police. Furthermore, the "combined patrols" have committed their own share of human rights violations and other acts which, by their nature, are reminiscent of militarization during the period of armed confrontation.

9. Upon assuming his post on 24 January, the head of the Strategic Affairs Secretariat in the Office of the President, Mr. Edgar Gutierrez, condemned the fact that the files on the investigation of high-profile cases such as the assassination of Monsignor Juan José Gerardi and Myrna Mack were missing, and that confidential files which had been in the possession of the Secretariat had been partially destroyed. Later, the announcement by his office regarding the discovery of a large database of several hundred thousand names, and the statement that the information might have been used by the army and previous Governments to control the people of Guatemala created quite a stir. In May, *the National Security Archive*, a non-governmental organization in the United States of America, reported that documents cleared for public dissemination by the Government of the United States contained information on the participation of members of the army in human rights violations, and it handed them over to the Office of the Counsel for Human Rights.

10. In December 1999, Rigoberta Menchú Tum, winner of the Nobel Peace Prize, filed a criminal complaint in the Spanish courts for the crimes of genocide, state terrorism and torture against, inter alia, three generals and de facto former Heads of State, Oscar Humberto Mejía Víctores, Fernando Romeo Lucas García and José Efraín Ríos Montt (current President of the Congress), and Pedro García Arredondo (current Mayor of Nueva Santa Rosa). On 27 March, the Spanish courts declared they had jurisdiction over the case. Families of victims and Guatemalan organizations, including the Office of the Counsel for Human Rights, also became parties to the complaint. Subsequently, criminal charges for undermining the integrity and independence of the State, violating the provisions of the Constitution and failing to report an offence were filed against Rigoberta Menchú, by one of the defence attorneys for the soldiers accused of the Xamán massacre, in whose trial the Rigoberta Menchú Tum Foundation was a joint complainant. In addition, on 3 May, the Asociación Reconciliación para la Justicia ("Reconciliation for Justice" Association), comprised of witnesses who had

survived massacres, on the advice of the Human Rights Legal Action Centre, filed charges in the Guatemalan courts against three retired generals who had been part of the army high command, including Fernando Romeo Lucas García, former head of State, for a number of massacres committed in the 1980s.

11. The Mission said that repeated jailbreaks in Guatemala not only reveal serious shortcomings in the prison system but also aggravate society's feeling that impunity exists, and its mistrust of the competent State institutions. The escape of 15 prisoners, in a number of cases with the help of State agents, confirmed the crisis in the prison system. Since 1998, the Guatemalan army has provided security outside some prison complexes; however, under Government Agreement 87-2000, the President authorized the army to cooperate in maintaining order and security inside the facilities and jails of the country's prison system.

12. Society's perception of an increase in criminal activity during the period under review was heightened by the discovery of a large number of corpses of alleged criminals bearing signs of torture, including decapitation, possibly as part of so-called "social cleansing" and vendettas between individuals or criminal gangs. In addition, application of the death penalty was reinstituted. On 29 June, two persons sentenced to death for kidnapping and murder, who had been denied a commutation of sentence by the President of the Republic, were executed. At least seven other convicted persons may be executed this year.

13. Also filed were complaints of death threats and "selective" searches and robberies at the headquarters of social organizations. These acts of intimidation are aimed mainly at social, human rights and victims' organizations, and judges, prosecutors and journalists directly or indirectly involved in the criminal trials of agents of the State or investigations into the organization and activities of the intelligence services. Against this backdrop, on 29 May, a group of leading non-governmental human rights organizations publicly denounced this climate of intimidation.

14. Notwithstanding the praise deserved by the Government's new human rights policy and its clear willingness to move forward with the implementation of its commitments under the Comprehensive Agreement, the serious incidents described in the preceding paragraphs and the overall result of the verification show that, during the period under review, there were disturbing signs that the human rights situation in Guatemala might be deteriorating.

II. Analysis of the commitments undertaken under the Comprehensive Agreement on Human Rights

Commitment I
General commitment to human rights

Analysis of verification of the rights accorded priority under the Comprehensive Agreement

15. According to the available figures, the period covered by this report witnessed the admission of 285 complaints involving 5,225 alleged violations of the rights accorded priority under the Comprehensive Agreement and the existence of 4,863 violations as confirmed; this represents a slight increase over the previous period. Of the total number of confirmed violations, 2,692 (55.3 per cent) correspond to complaints admitted during the period under review, while 2,171 (44.7 per cent) correspond to those admitted during previous periods, whose verification process extended into the current period (see appendix).

16. The comprehensive analysis by category of right shows an increase in confirmed violations of the right to freedom of association and assembly and of political rights. Of the total number of 1,159 violations in the first case, 448 (38.6 per cent) correspond to complaints admitted during the period under review and 711 (61.3 per cent) to those admitted during previous periods. In the case of political rights, nearly all the violations were reported during the period under review and connected with the general elections. To a lesser extent, there is an increase in violations of the right to individual liberty and security of person, with 182 confirmed violations, of which 118 (64.8 per cent) were reported during the period under review and 64 (35.1 per cent) during previous periods. The number of violations of the right to life decreased, with 35 confirmed violations, of which 21 correspond to the period under review and 14 to previous periods. As for the right to integrity of person, there were 91 confirmed violations — 63 from the period under review and 28 from previous periods. Lastly, there

were 2,991 confirmed violations of due process of law, of which 1,639 correspond to complaints submitted during the period under review and 1,352 to those submitted during previous periods.

Right to life

17. During the period under review, 27 complaints involving 34 alleged violations of the right to life were admitted; 26 extrajudicial executions and 9 attempted extrajudicial executions were confirmed. Despite their numerical decline, the recurrence of such serious violations is very distressing. As for confirmed violations, there was an alarming increase in the involvement of members of the National Civil Police, on whom the main responsibility falls for such violations. As described below, the responsibility of the army was also verified in a particularly significant case of extrajudicial execution.

18. With regard to the case of the kidnapping and subsequent murder of Edgar Ordóñez Porta, which occurred in May 1999, the verification revealed the involvement of agents of the State belonging to a military intelligence unit. As indicated below, members of the military intelligence also committed actions aimed at pressuring witnesses, distorting the hypotheses of the investigation and covering up for high-ranking police authorities (see document A/54/688, annex, para. 74).

19. During the period under review there were serious cases of extrajudicial execution and attempted extrajudicial execution by National Civil Police officers as a result of excessive force by agents of the State or the illegal use of regulation firearms to attack victims. There was also a recurrence of cases in which persons arrested by the National Civil Police were later found dead. On other occasions, off-duty officers used their regulation firearms to attack or threaten victims. Particularly serious was the fact that, in addition, the perpetrators fled from the scene without lending assistance to their victims and that the facts were frequently altered in police reports to cover up for the perpetrators.

20. The repeated cover-up of the perpetrators of such violations by their superiors, who, in most cases, did not take disciplinary action or conduct the proper administrative procedures, is worrying. Even less frequently have police authorities turned them over to the Public Prosecutor's office. Such omissions have facilitated the escape of the agents involved and made it impossible to trace them. Also members of the judiciary have repeatedly favoured impunity for the perpetrators.

21. On the night of 19 April on Calle Minerva, in the city of Cobán, Denis Fredy Cucul Tun, who was under the influence of alcohol, had an argument with members of the National Civil Police because his vehicle was allegedly blocking the route of a religious procession. The police officer, Rolando Salvador Rúbio Choc, led him to the other side of the street and, pinning him against the wall with one arm, shot him in the chest at close range. The victim died in the Cobán hospital. In the police report, the officer maintained that his weapon accidentally went off in a struggle to defend himself against an attack by Cucul.

22. On 24 November 1999, Inspector Edgar Benjamín Súchite Oliva and Officer Edgar Nehemías Castillo Florián arrived at the Chiquimula bus terminal in squad car 23-001. Inspector Súchite, who was carrying an Uzi sub-machine gun, went over to three persons who were having a drink and requested José Otoniel Landaverry to stand up and be searched. When Landaverry stood up, the inspector loaded the weapon and fired it, hitting the victim on the forehead and causing his death. The inspector fled the scene while Landaverry was aided by Officer Castillo, who declared in the police report that "... Three individuals rushed towards the inspector and when he raised the Uzi sub-machine gun he was carrying, it went off". According to the forensic report, there was no gunpowder mark, indicating that the shot must have gone off at a distance of more than one metre. The witnesses and the report of the National Civil Police Office of Professional Accountability confirm that the shot had not been fired at close range, that there had been no struggle and that the weapon had been misused. On 16 February 2000, the Court of First Instance of Chiquimula ordered the arrest of Súchite, who is a fugitive. On 9 March, the National Civil Police requested his dismissal for failure to report to work.

23. On the night of 24 December 1999, Héctor Alexander Aldana Estrada, 22 years of age, was with his girlfriend in a vehicle parked at the orphanage of the village of Llano Verde de Zacapa. Three National Civil Police officers, riding in squad car 24-024 of the Río Hondo substation, arrived at the scene and surrounded the vehicle. As Aldana, seated in the

driver's seat with the vehicle door open, spoke on his cell phone, Officer Edy López shot him to death. The police fled the scene without lending assistance. The police report, signed by the Chief of the Substation, Second Officer Baudilio Natanael Brava Zapón, altered the facts by indicating that Aldana "rushed towards the officer with the intention of taking his weapon, the two of them fell to the ground and, in the ensuing struggle, the weapon accidentally went off ...". The autopsy established that the corpse did not bear any gunpowder mark, which would rule out the possibility that the shot could have been fired during the struggle. The second judge of the Court of First Instance of Zacapa, who was presiding at the time, Mynor Acevedo, ordered Officer Lopez to be released on bail subject to alternative measures, even though that was prohibited by law in international homicide trials. The incumbent judge subsequently reordered the officer's arrest and his suspension from his duties, but thus far no action has been taken.

24. In the department of Escuintla, the involvement of National Civil Police officers in serious cases of extrajudicial executions was also verified. Around midnight on 3 December 1999, on the Escuintla-Palín road, two witnesses observed that National Civil Police officers assigned to squad car 31-005 arrested Gabriel García González. Afterward, the detainee could not be found in any station of the National Civil Police. On 14 December in the vicinity of the scene of his capture, his corpse was found with the body severed from the head in a coup de gráce. The investigations of the National Civil Police Office of Professional Accountability established the identity of the patrol officers on duty at the time and place of the victim's arrest, and that Deputy Captain Álvaro René Agustín Mejía, accompanied by two officers, supervised the patrols that night. Eight months later, all the National Civil Police officers involved continue to report for work as usual.

25. On the night of 22 February 2000, National Civil Police officers Milton Eduardo Sandoval Villeda and Miguel Arturo Castro Romero of the Guanagazapa substation, while riding in squad car 31034 headed, in a drunken state, for a nightclub in Escuintla. There, Officer Sandoval reloaded his AK-47 rifle, firing a bullet from the chamber. After waiter Obdulio Israel Funes Vásquez picked up the bullet from the floor, the officer shot and killed him. On 1 March, the Criminal Judge of the Court of First Instance of Escuintla ordered the release of the officers, accepting a writ of habeas corpus from the defence. On 14 March, another order was sent out for their arrest; however, the officers had already fled.

26. On 31 May 2000, the President of the Republic commuted the death sentence of Pedro Rax Cucul, a monolingual indigenous person suffering from mental illness (see A/54/688, para. 56), to a prison term. He simultaneously denied commutation to three other convicted persons: Fermín Ramirez, in whose trial the charges had been improperly changed without giving him an opportunity to a new defence and Luis Cetín and Tomás Cerrate, in whose trial there had also been violations of basic guarantees. The latter two were executed by lethal injection on 29 June 2000. The Mission recalls that the United Nations Commission on Human Rights this year reiterated its urgent appeal this year to all States to suspend executions with a view to abolishing the death penalty. For its part, the National Supreme Court of Justice, reviewing the case, upheld two death sentences issued in the cases of seven persons convicted of kidnapping which di not involve the victims' death. As the Mission has already indicated, such sentences are contrary to article 46 of the Constitution and the American Convention on Human Rights. It should be recalled that the Constitutional Court ratified that provision in the text of the Constitution, since human rights treaties take precedence over ordinary law. In failing to apply a prison sentence instead of the death penalty, the right to life of those convicted would be illegally violated, as established by the Inter-American Court of Human Rights in its advisory opinion number 16 and, repeatedly, by the United Nations Human Rights Committee. When the Congress repealed the law governing commutation of sentences, the preamble of the repealing law and misinformation in the press gave the misleading impression that commutation of the death sentence was being abolished. The Mission reaffirms that this institution is a right recognized by the International Covenant on Civil and Political Rights and by the American Convention, and that these treaties form part of the Guatemalan law in force.

Right to integrity

27. During the period under review, 41 complaints involving 103 alleged violations were admitted, of which 91 were confirmed, most of them committed by officers of the National Civil Police. New cases of

torture, cruel, inhumane and degrading treatment and abuse of detainees, inflicted by officers of the National Civil Police, were verified. The involvement of the National Criminal Investigation Service of the police in cases of torture, in an effort to force extrajudicial confessions, was considerable. Although the number of such cases has declined, their recurrence following arrest, when the person is helpless, is disturbing. However, there was an increase in excessive use of force and abuse by the National Civil Police, which is related to the fact that disproportionate use of force is the most frequent cause of extrajudicial executions.

28. Similar-style violations occurred in the same places indicated in the previous report (A/54/688, para. 11). This shows that the police authorities did not take the necessary measures to prevent them, which entails the risk that they could become a practice of the National Civil Police investigatory bodies.

29. As the following case reveals, the acquiescence of police chiefs can reach alarming extremes. On the night of 9 February 2000, Augusto Marroquín Carreto was removed from his cell at the Quetzaltenango Pre-trial Detention Centre and interrogated by agents of the local Criminal Investigation Service, which had information linking him to the murder of another prisoner that same day. During the interrogation, they beat and tortured him in order to make him confess. The Mission verified the injuries and the testimony on the victim's screaming, as well as the presence in the jail of agents of the Criminal Investigation Service and high-ranking officers of the National Civil Police. Participating in the incident were Tránsito López Barrera, chief of the Quetzaltenango Criminal Investigation Service, and officers of that unit, Edwin Rolando Solis Cutuc and Carmelino Becerra Barrios. The Captain of the department, Mario Verduo, the Deputy Captain and Head of Personnel, Oscar Oswaldo Cerna Vidal, and the Deputy Captain of Support, Otto Pérez Angel, were present during the interrogation and allowed the torture to take place. The headquarters of the National Civil Police carried out disciplinary proceedings. In another torture case, the Mission verified that, on 5 February 2000, the above-mentioned chief of the Criminal Investigation Service of Quetzaltenango and other agents tortured Pablo Albani Edelman Bethancourt and Alex Guillermo Reyes Monterroso, asphyxiating them in an oil cloth hood in order to force them to confess to belonging to a gang of auto thieves.

30. Outstanding among the cases of confirmed cruel, inhuman and degrading treatment for which responsibility rests with the National Civil Police, was the incident in Aguacatán, Huehuetenango, on 8 January 2000. Agents of the Criminal Intelligence Service, Armando David Ajpá, Pedro Miranda Fuentes, Héctor Augusto Mérida and Deputy Inspector Juan Nolasco Ordóñez entered the home of Eric Homero Agustín Chávez without a court order, proceeded to arrest him in a violent manner and took him to the substation of the National Civil Police, where they were recently identified as agents of the Criminal Intelligence Service. With the consent of the guard, they entered a cell, where they continued to beat him and then booked him for lying and fraud after attaching a false identity card to his clothes. The forensic medical report certified that the victim had numerous injuries. Deputy Inspector Nolasco had previously been held responsible in a torture case during his previous assignment to Quetzaltenango.

31. On 7 April it was reported that an active-duty member of the military, against whom an arrest warrant had been issued in connection with the Dos Erres massacre, was arrested at the facilities of the Brigada Mariscal Zabala intelligence training school. According to the army report, he was then transferred to the Military Medical Centre, allegedly to deal with a severe psychotic disturbance. The Mission, which initially had difficulty verifying the circumstances underlying the transfer, confirmed that the person had received psychiatric treatment at the Centre, where he was administered strong doses of antipsychotic drugs. The treatment was approved by the authorities of the Medical Centre with no reasonable justification for its intensity and prolongation and was administered with the acquiescence and tolerance of high-ranking army authorities.

Right to individual liberty and security of person

32. During the period under review, 76 complaints involving 197 alleged violations were admitted; 182 were confirmed. Compared to the previous period, there was an overall increase in the number of violations. This is attributed primarily to a substantial increase in death threats, mainly by the National Civil Police and persons affiliated with the Army. It is important to note that, beginning with this report, death and other threats, which were formerly included under

the sections on right to life and right to integrity, respectively, are now included under this heading, which appears to be a more accurate reflection of the right affected by these threats.

33. Particularly serious was a case of enforced disappearance for which responsibility rests with National Civil Police officers. On the morning of 17 May 2000, in San Benito, Petén, agents of the Criminal Investigation Service in plain clothes illegally arrested Adelso Carillo Leiva, Rigoberto Pineda Agustín and Mynor Pineda Agustín, who were tortured during an interrogation for their alleged involvement in a kidnapping incident. The first two were brought before the court but Mynor Pineda is still missing. According to Carillo's and Rigoberto Pineda's accounts, as the three were being driven away, agents of the Criminal Investigation Service removed Mynor Pineda from the vehicle and took him to an unknown destination. On the basis of additional testimony which coincided with the detainee's statement, the Mission was able to confirm Mynor Pineda's arrest by the National Civil Police and the involvement of agents of the Criminal Investigation Service.

34. The complaint on the alleged enforced disappearance of university professor Mayra Gutiérrez, whose whereabouts have been unknown since 17 April 2000, is being verified. No definitive conclusion on the case could be reached based on the information available at the time this report was concluded. Nonetheless, it has been confirmed that the investigation by the Public Prosecutor's Office does not meet the criteria of objectivity, impartiality and exhaustiveness required under the Penal Code and the office's organizational law.

35. During the period under review, there was a distressing climate of intimidation, reflected in the increase in complaints of death threats and other threats. Such threats were allegedly aimed at inhibiting victims from lodging further human rights complaints at the national and international levels or from pursuing the trials of some cases with a national impact in which members of the military are implicated and investigative press reports on such cases and on military intelligence structures. The threats in question relate, in particular, to the case of Monsignor Gerardi and are directed at prosecutors, judges, witnesses, attorneys, members of human rights organizations and journalists. A judge, a prosecutor and an attorney for the joint complainant and five witnesses in that case have already left the country under similar threats. In general, such harassment was stepped up and followed common patterns, such as following vehicles, surveillance in front of victims' homes, anonymous telephone calls, the presence of armed strangers near residences, robbery and search of offices and homes, signs of intimidation, wiretapping and theft of computer files.

36. With regard to arbitrary detention or the violation of legal guarantees, a case in point was the incident in San Pedro Carchá, Alta Verapez on 17 December 1999. After 9 p.m., National Civil Police Officers Edgar Ricardo Aguilar Bac, Vicente Pop and Edin Rolando Marroquín García, assigned to squad car 51-37 of Cahabón, entered the eating establishment owned by Héctor Antonio Suyen Picón in a drunken state and ordered beer. When the owner refused to sell alcoholic drinks to them after 9 p.m., they dragged him outside, arrested him and took him to the San Pedro substation of the National Civil Police. There, the officer-in-charge realized what had happened, arrested the officers and brought them before the court. According to the forensic report, it took 15 days for the injuries to heal.

Right to freedom of association and assembly

37. During the period under review, six complaints concerning 451 alleged violations were admitted and 1,159 were confirmed. Of those, 448 correspond to complaints admitted during the period under review and 711 to complaints submitted during previous periods. Of the 1,159 confirmed violations, 754 are related to freedom of association and 404 to freedom of assembly. The judicial and executive branches of government are mainly responsible for the violations of freedom of association, and the municipal authorities, for violations of the right of assembly. During the previous period, a total of 355 violations were confirmed.

38. The Mission followed up the incidents which took place on 13 October 1999 at the headquarters of the Izabal Banana Workers Union (SITRABI) in Morales (see A/54/688, annex, para. 32). The Special Cases Unit initiated an investigation which led to the opening of oral proceedings against 24 persons accused of the crimes of unlawful entry, illegal arrest and coercion in the Second Court of First Instance of Izabal. However, the characterization of the crimes in bringing charges and in the initiating order for the oral

proceedings was not commensurate with the findings of the investigation, as it omitted circumstances applicable to the case, such as the mob and the aggravating circumstances in the crimes of illegal search and arrest. The actions of the State institutions in punishing these crimes is thus limited and constitutes insufficient protection of the exercise of freedom of association. In fact, the union leaders were forced to abandon the site, which had a negative impact on its capacity to act, and it had to appoint new leadership.

39. With regard to the complaint brought by the Judiciary Staff Union against the previous bench of the Supreme Court of Justice (A/54/688, annex, para. 34), the Mission fulfilled its mandate by investigating the alleged violation of the right to organize, without seeking to determine the legality of the work stoppage that resulted in the dismissal of 508 workers in 1999. The conclusions of the investigation were sent to the parties and to the Presidential Human Rights Commission, given the possibility that the Government might exercise its good offices. The main conclusions were that the refusal of the Supreme Court to negotiate had prevented the Judiciary Staff Union from exercising the function of collective bargaining, one of the aspects of the right to organize; that the dismissal of union leaders had violated the protection from dismissal guaranteed by their collective agreement and by article 223 of the Labour Code, since no just cause for dismissal was shown in ordinary proceedings before a competent court. Moreover, wages for March 1996 were not paid as ordered by the Constitutional Court. Subsequently, the Judiciary Staff Union complained that union dues continued to be deposited in a judicial account, because the Attorney-General's Office had contested the composition of its new executive board, and the union deemed this to be a violation of its right to control its own assets.

40. A case of particular concern involving the right to organize was the killing of Oswaldo Monzón Lima, General Secretary of the Union of Fuel Tanker Drivers, whose body was found with a bullet in the back on 23 June 2000 in Escuintla. Relatives and members of the General Workers' Union of Guatemala believe that those responsible for the deed are the owners of a firm where the victim had worked and organized a union. After being dismissed from his job, Monzón had brought a labour complaint against his former employers and had also filed a criminal complaint against them with the Public Prosecutor's Office for death threats. The Mission will verify compliance with the State's duty to investigate and punish.

Political rights

41. In November and December 1999, general elections in which the whole spectrum of political opinion in the country participated were held for the first time since the signing of the Agreement on a Firm and Lasting Peace. The results of the verification of the first round of elections on 7 November were described in the Mission's tenth report (A/54/688, para. 22 ff.). The second round of presidential elections was held on 26 December 1999, and Alfonso Portillo, candidate of the Frente Republicano Guatemalteco, emerged the victor. The general elections were held to fill the posts of President and Vice-President of the Republic, deputies to Congress, deputies to the Central American Parliament, and mayors of municipalities. The 113 deputies elected to the Congress of the Republic represent the following parties, which make up the new legislature: Frente Republicano Guatemalteco (63), Partido de Avanzada Nacional (37), Alianza Nueva Nación (9), Christian Democratic Party (2), Partido Libertador Progresista (1) and Unión Democrática/ Organización Verde (1). The Alianza Nueva Nación, an alliance of several political parties, is an outgrowth of the Unidad Revolucionaria Nacional Guatemaltec (URNG), a signatory to the Peace Agreements.

42. The Mission devoted special attention to the performance of State institutions in guaranteeing and respecting political rights and focused on detecting any acts of discrimination, intimidation and bias or propaganda on the part of government authorities. The Mission fielded verification teams in over 300 municipalities and observed more than 200 public campaign events. During the pre-election period there were fewer acts of physical violence than in 1995. However, the Mission noted incidents of varying seriousness in at least 37 municipalities, generally related to the results of elections for local office. There was also a high level of verbal violence, with constant personal attacks that obscured the necessary public debate about government programmes.

43. Despite the inadequacies of the current electoral law and infrastructure limitations in terms of premises and equipment, the Mission noted a considerable improvement in the handling of the election. Ignorance of indigenous languages on the part of officials of the

register of citizens remains a serious obstacle to the exercise of political rights by the indigenous peoples.

44. There was a substantial increase in civic participation, in terms of both registration in the electoral roll, and voter turn-out at the polls, especially noticeable among women and indigenous peoples. Although rates of new registration were higher in departments with larger indigenous populations and among women, those two groups still have the lowest percentages of registration. The gap between numbers of men and women registered is gradually shrinking.

45. There is still a need for major legal reforms and institution-building programmes in the area of voter registration and participation, in order to make the system of political representation more inclusive and the process of registration and voting easier. As has been said before, the Mission regrets that the first elections since the signing of the Peace Agreements were conducted without the adoption of the necessary reforms of the system of elections and political parties, despite their timely submittal to the Congress by the Supreme Electoral Tribunal. In that regard, the Mission allies itself with the statement made by the President of the Tribunal, when presenting the documents of office to the new officials of the executive branch, concerning the need for political, legal and financial support to bring about the reform of the system.

Right to freedom of expression

46. The effective enjoyment of this right has been called into question by complaints of threats against journalists working for the national media, threats to which the Mission is paying close attention. During the reporting period, it received complaints from the daily newspapers *El Periódico* and Nuestro Diario, the radio news programme "Guatemala Flash" and the news agency Centro Exterior de Reportes Informativos sobre Guatemala (CERIGUA). The threats against reporters for *El Periódico* occurred in connection with articles published on individuals associated with the military, particularly military intelligence, alleging the existence of a secret intelligence apparatus. The facts gathered do not rule out the possibility that State intelligence agencies are behind the harassment.

47. A case that aroused great public attention was the decision by channel executives to take the television programme "T-mas de Noche" off the air on 2 February 2000. According to the complaint, the Government had put pressure on the owner of the channel to shut down the programme because of its critical stance. The incident sparked a debate in the media, particularly the press, about freedom of expression and ownership of the broadcast television channels, especially about the de facto monopoly of channels 3, 7, 11 and 13 by one businessman with family connections in the Ministry of Communications, Infrastructure and Housing. The abandonment of the programme and the de facto monopoly were publicly criticized by the Counsel for Human Rights and the Inter-American Press Association. Meanwhile, investigation of a complaint about the abandonment of five news programmes transmitted on Jalapa local cable television until 30 March 2000 revealed that ties between the owners of the company that acquired the cable operation and the governing party might have influenced the decision.

48. In view of this situation, the Government invited Mr. Santiago Cantón, special rapporteur for Freedom of Expression of the Organization of American States (OAS), to visit the country. In his preliminary evaluation on 14 April 2000, he made a number of recommendations, calling inter alia for: (a) a thorough investigation into the de facto monopoly in broadcast television; (b) creation of mechanisms allowing for greater diversity of ownership; (c) application of clear rules to avoid conflict of interest between public officials and the communications media; (d) suspension of bidding on radio frequencies until the Agreement on the Identity and Rights of Indigenous Peoples was complied with; (e) review of the regulations on television and radio concessions with a view to incorporating democratic criteria ensuring equal opportunity for access to them; and (f) promotion of legislation on access to information and *habeas data*.

49. The bidding process has been halted, but the Mission is unaware of any specific action taken on the other recommendations. It is particularly concerned that no action has been taken to investigate the television monopoly, especially since the Government has acknowledged that a "moral monopoly" exists. A number of sectors of the society feel that such a concentration of ownership is a threat to freedom of expression and the proper functioning of a democratic system, citing the political bias of news programmes and censorship of topics that might affect the interests of the owner or persons close to him. Steps that might be taken to overcome the problem include amending

the Radio Communications Act and transferring the two State television channels to other sectors of society.

50. In the Agreement on Identity and Rights of Indigenous Peoples, the Government undertook to propose legislation to Congress amending the Radio Communications Act to facilitate the assignment of frequencies to indigenous projects and to ensure the principle of non-discrimination. However, the amendments introduced entail the award of frequencies through public bidding. The large amounts a successful bid would involve prevent access to frequencies by owners of community radio stations.

Commitment to promote rules and mechanisms for the protection of human rights

51. As a partial response to the Clarification Commission's recommendations (A/53/928), on 24 February 2000 Congress issued Legislative Order 15-2000 establishing 25 February as Victims of Violence Day in honour of the presentation of the Commission's report, "Guatemala: Memory of Silence", and in commemoration of Guatemalans who had suffered; it also called upon State agencies to take up the recommendations of the Commission that pertained to them.

52. The Code of Children and Youth was adopted in September 1996, but its implementation has been repeatedly postponed, most recently to the year 2000. To facilitate its entry into force, in November 1999 social and religious organizations concerned with children's issues, after nearly a year of debate, submitted a consensus proposal to Congress on amendments to the Code. Notwithstanding, on 24 February 2000 Congress passed Legislative Decree 4-2000 suspending the application of the Code without setting a date for resumption of debate. The Mission has said repeatedly that the current provisions, including the Juvenile Code are not in line with the contents and protection measures of the Convention on the Rights of the Child, which Guatemala ratified in 1990.

53. In the Peace Agreements, the Government undertook to apply the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination, which was ratified by Guatemala in January 1984, by defining ethnic discrimination as an offence punishable by law. It also undertook to propose to Congress that sexual harassment should characterized and that any sexual offence against indigenous women, a highly vulne group, should be considered an aggravat Although a number of bills to that effect submitted to Congress, to date no progre made in passing these legislative amer combat discrimination.

Commitment II
Commitment to strengthening institutions for the protection human rights

54. During the reporting period, there was in complaints of intimidation, harassment threats against prosecutors, judges, parties and members of human rights bodies criminal proceedings against agents of the victims of such acts were some journalis news related to the functioning of the jus The victims claim that they received telephone calls, were under surveillance at of work or residence or noticed the suspicious individuals in those locations a cases had been followed.

55. Among the violations described w threats to the judicial authorities and oth involved in the Gerardi case. On 7 March, Leopoldo Zeissig was followed by associated with the Presidential General eluded the police by taking refuge in a par the grounds of the Presidential Mansion de María García Villatoro complained of thr herself and the staff of her court on 17 May she had ordered the initiation of proceed three military officers. Justice Jazmín Barr on the bench of the trial court that will hear first instance, also complained of threats 2000. Lastly, witnesses in the case con intimidation, and some were forced to country.

56. The Mission notes that the Public F Office and the judiciary still suffer fr deficiencies in their basic functions of t and judging offences. The limitations on th and independence of these institutions are interference by other State agencies and

conduct by their own officers. Of particular seriousness is the finding that parallel investigations may be conducted by bodies that have no procedural right to do so.

Commitment III
Commitment against impunity

Right to due process

57. The persistent and widespread failure of the State to fulfil its obligation to prevent, investigate and punish crimes and human rights violations and to enforce the guarantees that constitute due process of law is one of the main factors contributing to the situation of impunity prevailing in Guatemala. In order to give a comprehensive picture of the institutional components of impunity, right to due process will also be considered in this section.

58. During the reporting period, 131 complaints were admitted involving 4,034 alleged violations, of which 2,991 were confirmed. In the previous reporting period, there were 3,665 confirmed violations, more than half of them violations of due process in relation to the massacres and enforced disappearances that occurred during the armed conflict. In the reporting period, 36.88 per cent of the confirmed violations related to the obligation to investigate and punish, 25.51 per cent to obstruction of justice and 25.34 per cent to the right of access to the justice system. The complaints are chiefly against the Public Prosecutor's Office, the National Civil Police and the judiciary.

59. The justice system continues to give evidence of serious shortcomings with respect to criminal investigation and compliance with due process. In most of the cases verified, the requisite procedural steps to clarify the facts and prosecute the offenders were not taken. The procedural delays typical of the courts and the lack of coordination between the various agents of the justice system are largely responsible for the failure of the State to fulfil its obligation to prevent, investigate and punish.

60. One disturbing manifestation of the persistence of impunity in Guatemala is that most of the key cases of human rights violations that occurred prior to the signing of the Peace Agreements have still not been clarified or punished. The case concerning the forced disappearance of URNG member Efraín Bámaca was dismissed in May 1998. The lower court decision in the murder of Jorge Carpio and others was overturned in April 1999 and the three defendants were acquitted, so that the investigation had to be recommenced from the beginning. With regard to the murder of Epaminondas González Dubón, the decision of the lower court was upheld in January 2000, but no ruling was made regarding the responsibility of members of the armed forces as instigators and abettors, and the offence was treated as a common crime. In the Myrna Mack murder trial, the Supreme Court of Justice waited from 4 November 1999 to 23 March 2000 to rule on an application for *amparo* filed by the defence, which sought to have the case transferred to the military courts; the defence appealed that ruling to the Constitutional Court. In the case of the murder of Nicholas Blake and Griffith Davis, the trial court of Huehuetenango in January 2000 handed down a 28-year prison sentence against one of the presumed perpetrators, Vicente Cifuentes López, just one of the four alleged principals held in custody since 1997 (see A/54/688, annex, paras. 62 and 70).

61. In the trial of former military commissioner Cándido Noriega (see A/53/853, annex, para. 63), the Ninth Division of the Court of Appeals in February declared inadmissible the special appeal filed by the defence against the lower court decision sentencing the defendant to 240 years in prison. An application for judicial review filed by the defence in March is pending before the Supreme Court of Justice. In the trial concerning the tragic events that occurred in the community of Xamán (see A/54/688, annex, para. 58), the Criminal Division of the Supreme Court of Justice, in its ruling on the application for judicial review filed by the prosecutor on 12 April 2000, overturned the lower court's decision and ordered a new trial and the detention of the 15 military patrol defendants who had been acquitted in the appeal court.

62. In the process begun in 1994, because of the massacre occurring in 1982, at Dos Erres, La Libertad, Petén, the Mission highly values the impetus currently being given to the lawsuit, which coincides with the change in prosecutors for the case. The exhumation carried out in previous years revealed 189 victims, of whom 67 were children under 12. During that period, the testimony of two soldiers who had participated in the massacre led to the issuance of 16 arrest warrants for soldiers allegedly implicated. The warrants focused only on the National Civil Police and not the army, although several of those implicated remain on active

duty. On 11 April and 8 May 2000, motions of *amparo* were filed on behalf of six of the accused; they were granted provisionally by the Constitutional Court. The applicants maintain that their actions are covered by the provisions of article 5 of the National Reconciliation Act since they maintain that "we participated in a military operation for the purpose of impeding, pursuing and suppressing guerrilla activity". The Mission believes that the crimes investigated are clearly outside the scope of this Act, since the murder of unarmed people, including small children, cannot be considered as included in acts of armed conflict; nor is there a "rational and objective relationship" between the prevention or suppression of crime committed by the insurgents and the commission of a massacre.

63. The Mission appreciates that, in the trial concerning the Río Negro massacre (see A/54/688, annex, para. 60), the Appeals Chamber in Cobán struck down the death penalty imposed by the court of first instance, changing it to imprisonment without parole. Although the sentence only applies to three former members of a civilian indigenous patrol, it left open the case against the then commander of the Rabinal military detachment and other members of the army.

64. In relation to the kidnapping and murder of Edgar Ordoñez Porta, the Mission has adequate information on the existence of a parallel investigation conducted by military intelligence agencies, in which it is concluded that the murder can be attributed to a criminal gang and a settling of scores between drug traffickers. The investigation conducted by the Public Prosecutor's Office pursues the theory that it was a crime related to drug trafficking, and agrees with military intelligence in its approach. The theory proposed by the joint complainant, which maintains that there was involvement of elements of the army, has not been explored in an exhaustive, objective and impartial manner by the Public Prosecutor's Office. These facts cast doubt on the autonomy of the Public Prosecutor's Office in the case. As for the institutional actions of the National Civil Police, the Mission has information that high-ranking chiefs, at the time of the events, allowed witnesses to the case to be pressured into changing their statements in order to cover up the possible participation of members of military intelligence in the crime, which constitutes obstruction of justice.

65. The Mission continued to follow up on the investigation of the death of Monsignor Gerardi (see para. 9). The evidence gathered by the special prosecutor on the case was considered sufficient by the second criminal court of first instance to decide to open a case against three soldiers and two civilians involved in the incident. It is highly appreciated that the actions of the Public Prosecutor's Office and the tribunal in charge of the investigation have signified progress in the proceedings. Furthermore, the lack of cooperation by the Ministry of Defence has been verified: it has responded to various requests from the prosecutor by providing incomplete and incorrect information.

66. The Mission has analysed some of the rules and procedures which allow many of the human rights violations committed by members of the National Civil Police to go unpunished. First, the disciplinary regulations of the National Civil Police establish a distinction between minor, serious and very serious offences. The Minister of the Interior is competent to order the removal of an officer, on the recommendation of the Deputy Minister. The Director of the National Civil Police can impose any punishment other than removal from office. Among the very serious offences noted in the regulations — the only ones for which administrative inquiries are initiated — is "abuse of power and use of inhuman, degrading, discriminatory treatment or harassment against persons held in custody". Nevertheless, the final resolution of an administrative disciplinary procedure can only be obtained when a criminal sentence is upheld. It has been noted that the accused or other members of the National Civil Police have, in practice, obstructed the course of justice and undermined the guarantee of due process by: (a) altering police reports and in some cases, threatening subordinates; (b) offering victims money in exchange for dropping the criminal complaint; (c) fleeing. Thus, in many cases article 21 of the Constitution, which states: "public officials or employees and other individuals who give or execute orders in contravention of the provisions of the foregoing articles, in addition to the penalties imposed by law, shall be immediately relieved of their duties, as the case may be, and barred from any public office or employment" is not observed.

67. Particularly damaging is the persistent practice of altering police reports, which, by distorting the facts from the outset, constitutes a serious obstruction of justice. As the disciplinary regulations of the National Civil Police make no explicit mention of this, there is no penalty. It is not only a criminal offence, but a form

of clear failure to cooperate with members of other institutions of the Republic with which there are professional relations, which is considered a very serious offence under those regulations.

68. Lynchings are among the phenomena which are encouraged by impunity. During the reporting period the deplorable practice of lynching has continued, along with acts of mob violence, both spontaneous and premeditated. In the first six months of 2000, 22 lynchings or attempted lynchings were reported, leaving a total of 5 people dead and 30 injured. This indicates a decline in the number of cases compared with the figures for 1996, 1997, 1998 and the first nine months of 1999. It is in particular contrast with the worsening of the situation reported by the Mission in 1999, when a total of 100 lynchings or attempted lynchings were reported, leaving at least 48 people dead (see A/54/688, para. 63).

69. It should be noted that almost all the lynchings resulting in deaths during the period took place between 27 April and 1 May in Huehuetenango and Quiché. In the incident on 29 April in Todos Santos Cuchumatán, Huehuetenango, a Japanese citizen and a Guatemalan died; the former as a result of multiple and brutal blows from rocks and a hatchet, and the latter ferociously beaten and burned by 500 local people. At least four other persons were injured. The mob accused them of attempting to steal a child for Satanic sacrifices, based on rumours overlain with superstitions which had been circulating for several days before. After the lynchings, but before the arrest warrants were issued, the then Director General of the National Civil Police made public the names of the 19 main suspects. Only 9 of them could be arrested.

70. With regard to the lynchings which occurred in the hamlet of Tzuatzabé, Santa Lucía la Reforma, Totonicapán on 18 May 1999, and in the hamlets of Tunajá I, Zacualpa and Tunajá II, Joyabaj, Quiché, on 22 August 1999, the arrest warrants for the alleged perpetrators were not executed. In the first case, the Public Prosecutor's Office had indicated that, unless the arrests were made, the investigation could not go forward. In the second case, the arrest warrants were temporarily suspended by the Court of First Instance of Santa Cruz at the request of the Public Prosecutor's Office. The court's decision was prompted in part by the fact that the perpetrators and instigators of those incidents had considerable power and popular support and that the agents of justice were unable to go ahead with the criminal prosecution given the conflict situation that existed in Zacualpa after the murders. This suspension helped to paralyse the investigations.

71. The Mission reiterates that lynchings constitute a grave violation of such fundamental rights as the right to life, freedom and integrity of person, and the right to be tried by independent judges. Contrary to what has been stated, lynchings do not have their basis in indigenous customary law. The Mission has continued to support the efforts to prevent the practice in conjunction with the Modernization of the Judiciary Unit and with the National Civil Police, through information and training activities aimed at civilian and police officials and community leaders, as part of a long-term campaign of prevention and renewal of the civic conscience.

72. Major progress has been made in fulfilment of this commitment through the ratification of the Inter-American Convention on Forced Disappearances of Persons on 25 February 2000. It was marred, however, by the reservation to the effect that the extradition to or from Guatemala of Guatemalans alleged to be responsible for enforced disappearances would not be facilitated. This reservation is not consistent with what has been established in this commitment, nor with article 27 of the Constitution, which makes an exception to refuge and asylum in cases of crimes against humanity and violations of international law.

Commitment IV
Commitment that there are no illegal security forces and clandestine structures; regulation of the bearing of arms

73. In the Comprehensive Agreement, the parties recognized that in order to maintain unlimited respect for human rights it was necessary to combat any manifestation of such groups. At the same time, they made a commitment to continue with the purification and professionalization of the State security forces. Since its first report, the Mission has reported on the existence of those groups, entrenched in different areas of the State, and on the negative effects this has on the consolidation of the rule of law and the effective enjoyment of human rights. It has also pointed out that their activities are a key component of the impunity prevailing in the country.

74. During the reporting period, the Mission continued to verify the fulfilment of this important commitment and it has concluded that illegal security forces and clandestine groups continue to be active and that there is, as yet, no government policy to combat them. The Mission reiterates, furthermore, that the operational capacity of these groups, their links with public officials at the local and national level and the impunity which prevails for most of their actions are all factors that contribute to the people's growing perception of insecurity.

75. The cases verified indicate that clandestine State structures similar to those that existed during the internal armed conflict continue to exist, as do other structures which seem to be related to organized crime and which have corrupt ties to State apparatus, including the judicial system. A common feature of the actions of these structures is tolerance, acquiescence and even complicity of the agents of the State; they appear to be motivated by economic, political or even personal interests (see A/54/688, annex, paras. 73 and ff.).

76. The verification of the case of the self-styled "Frente Rebelde del Pueblo" ("People's Rebel Front") which operates in Quetzaltenango, indicates that the number of acts attributed to them had declined significantly and that no political motives could be established (see A/54/688, annex, para. 77). In March, the appearance of another armed group was verified, calling itself "Nueva Guerilla" ("New Guerrilla"), with similar characteristics with regard to its appearance, actions and theatre of operations, and in the past six months, the emergence of another group in El Estor, Izabal and the area of Polochic, Alta Verapáz, has been verified. In March, another armed group calling itself the "Ejercito para la Liberacion de los Pueblos Mayas" (Mayan People's Liberation Army) carried out various actions in the region of Boca Costa de Chimaltenango, Sololá and Suchitepéquez. Verification indicates that, despite the political statements customarily issued, the group is based on an old criminal structure. Nevertheless, the alignment of the leaders of the band with civilian organizations in Sololá reinforced the local perception that it could have some political aim. It should be noted that verification indicates that various members of this group had past ties with the deactivated Military Zone 14 of Sololá. The impunity of their actions is derived from the fact that they have penetrated local bodies of the State administration. The Mission points out that, despite the impact on society of their actions, to date the Government has not reacted appropriately, nor has it given the competent institutions, especially the National Civil Police, sufficient resources to combat them.

77. The Mission has verified cases where serious offences were committed for economic purposes. On 29 February, in Puerto Barrios, Izabal, Erwin Ochoa Lopez and Julio Vásquez Ramírez, legal counsel and administrative assistant in the Puerto Barrios office of the National Council on Protected Areas (CONAP), were murdered. The former had been following up on various complaints submitted by CONAP, including one against Sergio Otoniel Ponciano Garcia, for environmental crimes in Izabal, a zone listed as highly sensitive because of numerous instances of illegal logging and the construction of secret roads in support of, among other things, drug trafficking. The Mission had received sufficient indications that Ponciano Garcia, who is linked to trade in commercial air cargo, owns a private security company and is close to the departmental Governor, had made death threats against the legal counsel for CONAP because of the investigations he was conducting. The District Prosecutor of Izabal has not clarified the case and the support of the National Civil Police to the investigation has been insufficient. The CONAP offices in Puerto Barrios were temporarily closed. Given the characteristics of the victims and the significance of the case, it is urgent for State institutions to combine their efforts to clarify it.

78. Another relevant aspect is the concealment of participation or complicity, of public officials in the so-called "social cleansing" operations. With regard to the kidnapping and subsequent murder of the child Gary Castañeda in May 1999, it was confirmed that the kidnappers presented themselves as police officers to the director of the victim's school. Furthermore, verification confirmed the existence of a romantic relationship between the leader of the gang, Ana Silvia Arana Obregón, with a high-ranking officer of the National Civil Police. Later, the bodies of Arana Obregón, which was identified through DNA testing, and three Salvadorans, presumably members of her gang, were found near the border with Honduras. Verification established that members of the National Civil Police with possible ties to organized crime took part in the murders. To date, seven alleged members of the gang have been murdered with extreme violence,

which would indicate the existence of a "social cleansing" operation to cover up the ties of agents of the State to this group.

79. In the department of Escuintla the Mission verified the appearance of various bodies showing the characteristic signs of extrajudicial executions carried out as part of the "social cleansing" operation by illegal security forces or clandestine structures. Verification revealed the existence of at least three types of illegal groups related to this practice in the department. The first appears to be linked to the National Civil Police in the department and also to have support from a former military commander. The second structure appears to operate under the protection of powerful agro-industrial groups and is characterized by the systematic use of kidnapping, torture and terror, including the beheading or mutilation of the victims' bodies. The last group unites elements of a military detachment of the zone with a group of local hired assassins.

80. During previous periods, the Mission reported that 19 persons had been murdered in "social cleansing" operations on the road to Bethel, La Libertad, Petén (see A/52/946, annex, paras. 84 and ff. and A/53/853, annex, para. 71). Verification indicates that the responsibility for these acts rests with a clandestine group composed of various former military officers and led by, among others, Maximiliano Trujillo Duque, a former treasury guard. On 10 April, two witnesses in the trial were murdered when they returned to give testimony in the District Court of Petén.

81. The prison system is not spared from the activities of such groups, which enjoy the acquiescence or tolerance of the prison authorities. The Mission makes a distinction between two types of structures: on the one hand, those formed by prisoners who had been agents of the State or who had some type of link with the Government before being imprisoned; on the other, those made up of prison system officials. An example of this is the death of Gumercindo López, a prisoner convicted of kidnapping, whose body was found on 9 May with evidence of torture and unusual mutilation. López, who apparently escaped from the Zone 18 detention centre in the capital, was to have given testimony in another kidnapping trial. The Mission believes that there are strong indications to suggest that this was an extrajudicial execution which was made to look like the result of an escape and that a clandestine structure was involved. The Mission has observed that the initial investigation lacked the necessary thoroughness in view of the severity of the victim's wounds and that there were deficiencies in the actions of SIC. Moreover, the Mission encountered obstacles when it tried to gain access to the case files at the competent district public prosecutor's offices.

82. The existence of many and extensive links between organized crime and groups with political power, as well as the depth of its penetration into various sectors and its connections with criminal structures of neighbouring countries, was pointed out in connection with the so-called "Moreno case" (see A/51/790, annex, para. 33). This case serves as an example of how a hierarchical and diversified structure carried on illegal business, used a wide variety of criminal, political and economic means and resources, and had ample territorial freedom of movement and autonomy, joining with groups which exert pressure, power and influence, including State structures. With regard to the latter, the Mission has noted with great concern that public figures believed to have ties to this network, who had been keeping quiet, are reappearing in national public life and apparently hold some posts in the civil service.

83. The Mission has reiterated the seriousness of the activities of illegal structures which conduct parallel investigations, in some cases affecting the judicial process. Faced with the high crime rate, and especially the impact of kidnappings, which serve to heighten the perception of a climate of insecurity, the State has allowed persons or groups outside the competent institutions to become involved in police investigations, on the pretense of supporting prosecutors, judges and victims, and to utilize State resources. An example of this parallel system is the group known to the public as "La Oficinita", which is allegedly composed of agents and former agents of the State, professionals and individuals linked to powerful economic groups. Verification has established that, in many cases, this group conducts illegal activities either to obtain a conviction of accused criminals or even to have them eliminated.

84. In the Comprehensive Agreement, the Government pledged to disband the voluntary civil defence committees, to sever any institutional relations with the army and to ensure that they were not reconstituted so that these relations could be reinstituted. The Mission has looked into reports that these committees were being reorganized (A/54/688,

annex, para. 75 and ff.). Following verification it found that, in several cases, these new structures were in contact with military authorities or retired soldiers. It has also been verified that these groups were instigating trouble in many areas of the country and were taking part in lynchings, public security tasks through "monitoring committees" or local security boards and in acts of intimidation of and attacks on leaders or local organizations. The Mission noted with concern that, on 18 May, the outgoing chief of staff, Colonel César Augusto Ruiz Morales, in his farewell speech on retiring from active duty, called on the army to renew its contacts with these organizations.

85. The situation concerning the operations of private security companies and the lack of State control over such firms remains unchanged (A/54/688, annex, para. 78). According to the latest data provided by the Ministry of the Interior, only 77 companies are authorized to operate under the Private Police Act, that is to say, one more than in the previous period. The lack of effective oversight by the Private Security Agencies Department of the National Civil Police Directorate continues to be due in part to the fact that it does not have the resources needed to carry out its task. In that context, the ongoing verification of the deaths, on 27 April, during the demonstrations prompted by the rise in urban transit fares, of three people, including the journalist Roberto Martinez, revealed serious deficiencies in the recruitment, training and conditions of employment of the two private guards involved in the affair.

86. According to the army's Arms and Munitions Control Department (DECAM) 60,000 people own firearms; there are just under 150,000 firearms in Guatemala, of which 133,000 are defensive, 10,500 are for sports purposes and 4,400 are offensive; the remainder are collector's items. These arms were bought legally and most of them (98,000) are in the capital; a large percentage of the others can be found in the eastern part of the country.

87. According to DECAM, legal imports of arms increased by 50 per cent in 1999 the most popular being 9 mm weapons. One of the main problems is the lack of control over the purchase and use of munitions produced in the country. Despite the efforts made to reduce the number of permits issued to individuals (19,500 permits were not renewed in 1999), that leaves some 31,000 permits still in force. It should be noted that a single permit can be used to acquire several arms. Moreover, it is estimated that there are 2 million unregistered arms. The proliferation and lack of control over firearms is a continuing threat to the people's security, since the arms can easily be used for criminal acts and it is difficult for the authorities to identify the perpetrators.

Commitment VII
Safeguards and protection of individuals and entities working for the protection of human rights

88. During the period under review there was an increase in the number of threats, particularly death threats, against individuals and institutions involved in safeguarding human rights and against judicial officials linked to politically sensitive investigations. This confirms the gradual increase in the number of complaints in relation to threats noted in previous reports (see A/54/688, annex, para. 79). During the period under review the number of confirmed violations jumped from 32 to 56.

89. The first six months of 2000, which started with the change in Government, saw the greatest increase in the number of complaints of threats related to (a) the submission of complaints regarding illegal files; (b) new information on violations committed during the armed confrontation; (c) the start of new legal proceedings against former officials and former soldiers for crimes against humanity, both in the national and in the international context. The concentration and selectivity of the threats, their characteristics and the information provided helped generate a climate of uncertainty and fear, which human rights entities have repeatedly denounced during the period under review.

90. In several of the cases mentioned, the authors of the threats used tapped telephone lines and vehicles with registration plates assigned to the Presidential General Staff and had the experience and the infrastructure necessary to terrify their victims. The high operational capacity demonstrated would seem to lend credence to the suggestion that State agents tolerate, acquiesce and participate in such actions.

91. The State has done very little in reaction to this situation, in clear contravention of its duty to prevent, investigate and punish crime. The investigative organs and also the security organs have been unwilling or

unable to adequately follow up on the complaint — or fearful of doing so. In the period under review, the Mission verified that there had been no significant investigation.

92. This climate is seriously affecting the freedom of action of individuals and entities working for the protection of human rights, the independence of the administration of justice and the right to a free and independent press. The Mission expresses its profound concern at this and reiterates the need for the Government to implement the Comprehensive Agreement fully by taking effective measures to protect the victims of threats, and by investigating where the threats are coming from and punishing those responsible.

III. Final observations

93. The period covered by this report opened a new stage in the peace process for it was marked by the holding of the first elections following the signing of the Agreement on a Firm and Lasting Peace with the participation of the entire national political spectrum, as a result, the change in national and local leadership has been effected democratically and this has helped consolidate the rule of law and expand political participation. In this new context, it is necessary to consolidate what has already been achieved and to move ahead with the implementation of the broad outstanding agenda.

94. The Mission takes a positive view of the aims of the new human rights policy announced by the Government and of its public decision to move ahead with the effective implementation of the commitments of the Comprehensive Agreement. However, the findings of the verification conducted during the period under review and the qualitative analysis of these findings reveal serious crimes and situations which are having an adverse impact on the human rights situation.

Norms and mechanisms for the protection of human rights

95. Given that all the parties now represented in Congress expressed their commitment to the peace agreements during the electoral campaign, there is now an excellent opportunity to move forward, by consensus, with the postponed legislative agenda stemming from the agreements. In order to strengthen and expand the mechanisms to ensure effective exercise of human rights, it is particularly important to deal with the legal provisions, such as the reform of the Elections and Political Parties Act, the characterization of discrimination and sexual harassment as offences, the law which regulates the civil service, the law on arms and munitions, the one pertaining to private security companies, those which regulate the State intelligence agencies and the one establishing the National Women's Institute. In addition, the State must bring the domestic legislation into line with the precepts of the Convention on the Rights of the Child.

96. The Mission noted that despite legal and infrastructural constraints, there had been considerable improvement in the management of the Supreme Electoral Tribunal during the electoral process. In order to guarantee full enjoyment of political rights and surmount the traditional exclusion of broad sectors of society from political life and also to approve the reforms of the Elections and Political Parties Act, the Tribunal must consider such measures as: (a) sectoral voter registration campaigns, particularly for women and indigenous people; (b) ensuring that officials working to register voters in the interior are familiar with Mayan languages. Finally, the Tribunal must be given sufficient resources to carry out the work it has been assigned under the Constitution.

97. The Mission considers that ratification of the first Optional Protocol to the International Covenant on Civil and Political Rights, and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) would be a major step forward towards fulfilment of the commitment to promote mechanisms for the protection of human rights in the Comprehensive Agreement. Recognition of the competence of the Committee against Torture and of the Committee on the Elimination of Racial Discrimination to receive communications from individuals would be a further step forward, as would considering ratification of the Rome Treaty creating the International Criminal Court.

98. The Mission takes a positive view of the Government's efforts to promote national reconciliation, and of the willingness to recognize its international responsibility expressed by the State in the Inter-American Commission on Human Rights (IACHR) in several cases of extrajudicial execution

and enforced disappearance and of the continued implementation of pilot assistance projects in various areas of the country. With regard to the recommendations of the Clarification Commission, it would be essential to move ahead with the redefinition of the National Compensation and/or Assistance Programme and with the creation of the Foundation for Peace and Harmony taking into account the initial draft which has the approval of the majority of organizations in civil society.

99. In view of the fact that the State has expressed a wish in IACHR to honour its international obligations with regard to human rights, the Government is urged to ask the Inter-American Court of Human Rights for an advisory opinion on the compatibility of the criminal laws which imposed the death penalty for various offences subsequent to the entry into force of the Pact of San José, and to declare a moratorium on any such executions pending the Court's opinion.

100. The new regulations providing for direct intervention by the army in matters of public security (Government Agreement No. 87-2000 and Legislative Decrees Nos. 8-2000 and 40-2000) are not conducive to demilitarizing society delay the restructuring of the army and do nothing to strengthen the civilian authority of the State. According to the agreements, as the Mission has repeatedly recommended, it should be made absolutely clear that the measures are exceptional and temporary, that they are subject to the authority and control of the Ministry of the Interior and that Congress has the power to rescind them.

101. Finally, pursuant to the recommendations of the OAS rapporteur on freedom of expression, the Mission reiterates that existing laws must be reviewed. In particular, it is necessary to promote the inclusion of rules which will democratize access to open television and to guarantee the right of citizens to information and to participate in the building of a democratic society, particularly in the light of the provisions of the Agreement on Identity and Rights of Indigenous Peoples.

National Civil Police

102. The National Civil Police is the institution that bears primary responsibility for human rights violations during the period under review; its agents have engaged in very serious acts of extrajudicial execution and torture and have participated in so-called social cleansing operations. The Mission is deeply concerned at the persistence of torture, especially by SIC members, and by the disregard of the recommendations on the subject contained in its earlier reports. It is essential that measures be taken as a matter of urgency to ensure that the perpetrators be investigated and punished and that further such acts be prevented. Unless the internal purification of police elements involved in serious offences and violations — a permanent commitment set forth in the Comprehensive Agreement — is completed, full enjoyment of human rights in the country will continue to be seriously hampered.

103. The Mission reiterates the need to strengthen discipline and the internal control mechanisms by increasing the staff of the Office of Professional Accountability and regionalizing its services. In order to combat the prevailing impunity, it is necessary to consider transferring all information concerning the possible participation of police elements in criminal acts to the Public Prosecutor's Office.

104. The institution must, without further delay, adopt a truly democratic policy that is respectful of the rule of law, and that is consistent with respect for human rights and the concept of public service. Some of the violations committed by police officers can be prevented by redoubling efforts to enhance police training, particularly as regards arrest procedures, treatment of those detained and proportional use of force.

Public Prosecutor's Office

105. The persistence of impunity in Guatemala is due in large measure, to the repeated failure of the State to fulfil its duty to investigate and punish crimes and human rights violations. The Mission considers that priority must be given to dealing with the inadequacies and interferences that prevent the Office from playing its role in criminal investigations and the fight against impunity.

106. In particular, effective steps must be taken to deal with the lack of coordination with the National Civil Police and to improve the way prosecutors are selected and trained. In order to strengthen the internal oversight system, combat the frequent acts of corruption and ensure that officials are qualified, it is necessary to follow a clear policy of control and

purification. These efforts must be supplemented by a mechanism to protect witnesses and persons involved in the conduct of judicial proceedings so as to ensure that the system operates effectively. In cases where there is a possibility that State agents may intervene, appropriate steps must be taken to ensure that the officials of the Public Prosecutor's Office carry out their investigations independently, exhaustively and free from all pressure and intimidation.

The Judiciary

107. Since the armed confrontation came to an end a significant number of human rights violations have been related to the administration of justice. In most of the cases which have been verified it has been found that the steps needed to clarify the facts and prosecute the perpetrators have not been taken. In fact, the vast majority of cases representative of serious human rights violations go uninvestigated and unpunished.

108. In order to eradicate impunity and to consolidate the rule of law in Guatemala it is necessary to have competent and independent judges; like the officials of the Public Prosecutor's Office these judges must be free from pressure and threats. To achieve this within the context of the agreements, it is essential to continue efforts to reform and modernize the judiciary, by introducing measures conducive to improved selection, ongoing training and stability in office of judges and magistrates and strict monitoring of compliance with due process.

109. The Career Judicial Service Act and the Civil Service Act of the Judicial Branch represent progress towards the needed judicial reform. It is suggested that the content of some of the provisions of these acts and their regulations might be improved, bearing in mind the outcome of their practical implementation under the authority of the recently established Career Judicial Service Council. The Mission also recommends consolidating the recently established mechanisms for selection and evaluation and expanding the training and refresher activities for judges.

The Executive

110. During the period under review it has been found that judges and prosecutors are being threatened and intimidated, that justice is being obstructed and that, in general, State agents are not cooperating in the investigation of serious offences and human rights violations. The Mission recalls that there is an urgent need to fulfil the commitment which the Government assumed in the Comprehensive Agreement to respect the independence and to protect the freedom of action of the Public Prosecutor's Office and the judiciary from pressures of all kinds, no matter what their origin. It is also necessary to provide the necessary resources so that they can operate efficiently.

111. During the period under review the Mission confirmed the existence of parallel investigations in the case, for example, of Ordóñez Porta and in that of Monsignor Gerardi, and that this was influencing and distorting the investigations carried out by the competent authorities of the State. The Government must fulfil strictly the commitment it undertook in the Peace Agreements, to separate military intelligence agencies from civil matters and particularly from judicial investigations.

112. The Government bears primary responsibility for safeguarding human rights, the enjoyment of which is being seriously affected by the lack of public security. The Government must turn its attention, as a matter of priority, to preventing crime and human rights violations and putting a stop to lynchings and so-called social cleansing and to establishing the Advisory Council on Security which is provided for in the Peace Agreements.

113. In view of the lynchings, the Government is urged to prepare a strategy to strengthen the National Civil Police and proper administration of justice. Strengthening traditional mechanisms and the role of indigenous authorities may contribute to the prevention of this phenomenon.

114. In order for Guatemala to return to the path of increasing respect for and protection of human rights, the Mission considers that the Government's human rights policy, as set forth by the Presidential Human Rights Committee, must be implemented as a matter of urgency. Furthermore, the Government must take into account the recommendations the Mission has made in its reports in order to give effect to its declared decision to faithfully comply with the Comprehensive Agreement on Human Rights. The Mission will pay particular attention to ensuring that the State authorities rise to that challenge.

Appendix

Statistics on human rights violations during the period from 1 October 1999 to 30 June 2000

	Reported in the period under review				Reported in earlier periods		Total confirmed in the period under review
	Complaints submitted	Violations alleged	Executions verified	Violations confirmed	Violations verified	Violations confirmed	
Right to life (A)							
A1 Extrajudicial executions or deaths in violation of legal guarantees	20	21	15	13	23	13	26
A2 Attempted extrajudicial executions	7	13	12	8	3	1	9
Total	27	34	27	21	26	14	36
Right to integrity and security of person (B)							
B1 Torture	7	13	13	12	8	7	19
B2 Cruel, inhuman or degrading treatment	9	16	14	11	15	11	22
B3 Ill-treatment	19	46	35	10	28	8	38
B4 Excessive use of force	6	28	20	10	2	2	12
Total	41	103	82	63	53	28	91
Right to individual liberty (C)							
C1 Arbitrary detention	11	31	30	23	38	25	48
C2 Detention in violation of legal guarantees	13	65	60	56	23	21	77
C3 Kidnapping	0	1	1	0	1	0	0
C4 Hostage-taking	0	0	0	0	0	0	0
C5 Enforced disappearance	2	2	1	1	2	0	1
C6 Forcible, unjust or discriminatory recruitment	0	0	0	0	0	0	0
C7 Death threats	23	46	36	25	26	15	40
C8 Other threats	27	52	23	13	180	3	16
Total	76	197	151	118	270	64	182
Right to due process (D)							
D1 Right to be presumed innocent	4	7	6	6	23	20	26
D2 Right to be judged by a competent, independent and impartial judge	3	14	14	14	84	83	97
D3 Right to be tried within a reasonable time	1	5	5	5	87	86	91
D4 Right to defence and to be assisted by a lawyer	2	61	61	61	11	11	72
D5 Right to be assisted by an interpreter	0	4	4	4	68	68	72
D6 Right not to be compelled to testify against oneself	0	0	0	0	1	1	1
D7 Right of appeal	0	0	0	0	5	2	2
D8 Right of habeas corpus	1	1	1	0	1	1	1

	Reported in the period under review				*Reported in earlier periods*		*Total confirmed in the period under review*
	Complaints admitted	*Violations alleged*	*Violations verified*	*Violations confirmed*	*Violations verified*	*Violations confirmed*	
D9 Right of access to the justice system	26	1 400	572	572	200	186	758
D10 Obstruction of the work of the National Police, the Public Prosecutor's Office and the judiciary	22	632	603	600	171	163	763
D11 Legal duty of the State to investigate and punish	71	1 898	386	375	812	728	1 103
D12 Right to compensation	0	9	0	0	270	0	0
D13 Legal guarantees for the victim	1	3	2	2	4	3	5
Total	**131**	**4 034**	**1 654**	**1 639**	**1 737**	**1 352**	**2 991**
Political rights (E)							
E1 Right to have access to public service	1	1	1	1	2	1	2
E2 Right to be registered on the electoral roll	0	0	0	0	0	0	0
E3 Right to vote	0	0	0	0	0	0	0
E4 Right to hold political office	1	400	400	400	1	1	401
Total	**2**	**401**	**401**	**401**	**3**	**2**	**403**
Right to freedom of expression (F)	2	5	2	2	0	0	2
Right to freedom of association and assembly (G)							
G1 Right to freedom of association	3	403	402	401	173	3	404
G2 Right to organize	3	48	47	47	840	707	754
G3 Freedom of assembly	0	0	0	0	1	1	1
Total	**6**	**451**	**449**	**448**	**1 014**	**711**	**1 159**
Right to freedom of movement and residence (H)							
H1 Deprivation of documents	0	0	0	0	0	0	0
H2 Enforced population displacement	0	0	0	0	0	0	0
H3 Freedom of movement	0	0	0	0	0	0	0
Total	**0**	**0**	**0**	**0**	**0**	**0**	**0**

	Reported in the period under review				*Reported in earlier periods*		*Total confirmed in the period under review*
	Complaints admitted	*Violations alleged*	*Violations verified*	*Violations confirmed*	*Violations verified*	*Violations confirmed*	
Violations of the Agreement on Identity and Rights of Indigenous Peoples (P)							
P1 Freedom of thought, conscience and religion	0	0	0	0	0	0	0
P2 Use of indigenous languages	0	0	0	0	0	0	0
P3 Use of indigenous dress	0	0	0	0	0	0	0
P4 Right to register names in indigenous languages	0	0	0	0	0	0	0
Total	**0**	**0**	**0**	0	0	**0**	**0**
Grand total	**285**	**5 225**	**2 766**	**2 692**	**3 103**	**2 171**	**4 863**

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The situation in Central America: procedures for the establishment of a firm and lasting peace and progress in fashioning a region of peace, freedom democracy and development

United Nations Verification Mission in Guatemala

Report of the Secretary-General**

1. This is the fifth report on the verification of compliance with the agreements signed by the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG), submitted pursuant to the mandate given to the United Nations Verification Mission in Guatemala (MINUGUA) by the General Assembly in resolution 51/198 B of 27 March 1997. This mandate was extended until 31 December 2000 by resolution 54/99 of 8 December 1999, in which the General Assembly repeated its request that I should keep it fully informed. This report covers the period from 1 November 1999 to 30 June 2000.

2. On 16 May, I announced my decision to appoint Mr. Jean Arnault, at that time my Special Representative for Guatemala and Head of Mission of MINUGUA, to be my Representative and Head of the United Nations Office in Burundi, beginning in June 2000 (S/2000/423). At the same time, I designated Mr. Juan Pablo Corlazzoli, Deputy Head of Mission of MINUGUA, as my Special Representative and acting Head of Mission. I should like to take this opportunity to thank Mr. Arnault for his special dedication to the Guatemalan peace process, in which he rep United Nations from the negotiation phase

I. Introduction

3. The implementation of the commitm into by the Government and URNG is gov Agreement on the Implementation, Com Verification Timetable for the Peace (A/51/796-S/1997/114, annex I), which period 1997 to 2000 into three phases. 1999, the Commission to Follow Implementation of the Peace Agreements outstanding peace agenda, which it sha political parties competing in that ye elections. The agenda identified seven area action: human rights and national re civilian-military relations and military re of the system for the administration indigenous peoples and intercultural rel policy and development; social policies policy. The Commission then convened a t peace symposium, at which a large participants representing all sectors of analysed the implementation and priorities process. The third anniversary of the si Agreement on a Firm and Lasting Peace

* A/55/150 and Corr.1 and 2.

** The report covers the verification period up to 30 June 2000 and includes qualitative analysis of policies and trends of the period verified.

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S/1997/114, annex II), 29 December 1999, provided another opportunity for major sectors of society to assess progress in complying with the agreements. This report covers aspects dealt with in the Timetable Agreement, with special reference to the priority areas identified by the Follow-up Commission. It also describes its findings with regard to the direction and implementation of public policies relating to the commitments made in the peace agreements. The Mission began in Guatemala the submission of verification reports on some of these priority issues. During the reporting period, it published three reports: on the prison system, on the commitments relating to land and on the commitments in the sphere of labour relations.

4. In the period covered by this report, the peace process entered a new phase. In my previous report (A/54/526), I stressed the need to consolidate the achievements of the past three years and to move ahead in implementing the outstanding agenda. That agenda is still a full one; it remains valid and includes such important commitments as the implementation of fiscal reforms, the expansion of judicial reforms, the reform of the electoral system and the armed forces, and critical aspects related to public security. At the same time, the labour situation, the housing situation, the sustainable reintegration of the uprooted and demobilized population and the problems of compensation and national reconciliation remain outstanding and the failure to tackle them is affecting both the peace process and governance. The great challenge is to ensure the sustainability of the progress achieved, to make adequate provision for the multicultural and multi-ethnic characteristics of Guatemalan society in all areas of national life and to extend the benefits of peace to the areas of the country where the social debt remains greatest. Measures as important as the Fiscal Pact and the governance pact, to which the President of the Republic has referred on a number of occasions, require the understanding, participation and support of broad sectors of society which still remain marginalized.

5. On 15 January 2000, Mr. Alfonso Portillo took office as President of the Republic, after winning in the second round of the November-December 1999 elections as the candidate of the Frente Republicano Guatemalteco (FRG). In the general elections, voters elected the President, the Vice-President, members of the Congress and the Central American Parliament and municipal mayors. The 113 members elected to the Congress of the Republic represent the following political parties: Frente Republicano Guatemalteco (63), Partido de Avanzada Nacional (37), Alianza Nueva Nación (9), Christian Democratic Party (2), Partido Libertador Progresista (1) and Unión Democrática/Organización Verde (1). URNG, a signatory to the peace agreements, is represented by the Alianza Nueva Nación. In June, 16 members of the Congress left the Partido de Avanzada Nacional to form a new party, the Unionista party.

6. The 1999 general elections were the first held since the signing of the Agreement on a Firm and Lasting Peace. In the more than three years since the signing of that Agreement, one of the most important achievements of the peace process has been the widening of opportunities for political expression and participation, particularly for historically marginalized population groups such as indigenous people and women, and the participation of URNG as a political party. The Mission paid particular attention to monitoring the electoral process, in fulfilment of its mandate to verify political rights; the relevant findings are contained in its eleventh report on human rights (A/55/174, annex).

7. On 17 January, I announced my satisfaction at President Portillo's strong reaffirmation, in his inaugural speech, of the validity of the peace process and his recognition that its full implementation is a commitment of the State. Among the measures which he announced, the following were especially welcome: military reform, measures to combat impunity, promotion of national reconciliation and compensation for victims of the armed conflict, rights of women and indigenous people, the fiscal pact and the urgent need to apply a comprehensive policy for addressing the needs of those most seriously affected by poverty. On that occasion I reiterated, as I do now, my commitment and that of the United Nations to the agenda of democratic transformation contained in the peace agreements, and I encouraged the new authorities to move ahead resolutely with the implementation of that agenda.

8. In late January 2000, the President presented his proposal for the democratic governance pact announced in his inaugural speech. The pact is intended as a mechanism for reaching consensus among representatives of the State and political and social leaders on a national agenda, based on the peace

agreements, that will be submitted to local authorities for discussion in order to secure broad agreement throughout the country. The President specifically requested the help of the United Nations system and MINUGUA and said that the pact constituted a process of dialogue aimed at reaching consensus on a national strategy for reducing poverty within the framework of a renewed effort to implement all the peace agreements.

9. The Mission believes that the governance pact could be an important tool for involving the population in the peace process, evaluating its fulfilment and ensuring broad participation, especially at the municipal level, in national decision-making. The Mission also believes that combating poverty is essential to the fulfilment of the agreements, especially their socio-economic and agrarian elements. The Mission is therefore willing to cooperate in any initiative aimed at implementing, on a participatory, consensual basis, a strategy for reducing levels of social exclusion and creating conditions for the sustainability of the peace processes.

10. On 3 March, the Chairman of the Presidential Commission for Coordinating Executive Policy in the Field of Human Rights (COPREDEH) set out the policy adopted by the Government in the area of human rights. It is noteworthy that this policy, which reflects a number of the Mission's recommendations concerning the justice system, human rights and public security, is being analysed in conjunction with human rights organizations and other institutions of civil society. The proposed measures include ratification of international human rights instruments and acknowledgement of the State's responsibility in cases submitted to the Inter-American Court of Human Rights. The Mission notes with satisfaction the role which the Court plans to play in the Government's human rights policy.

11. In May 2000, the Peace Secretariat (SEPAZ) presented its Strategic Guidelines for the Implementation of the Peace Agreements, 2000-2004. In presenting the plan, the current Secretary reported on the Secretariat's proposed new structure, the purpose of which was to enable it to play a more active role in coordinating the work of public and private entities involved in implementing the peace agreements. The proposed strategy envisages a renewed effort to implement the agreements and the strengthening and adaptation of institutions set out under the peace process.

12. The Mission has found that, in the early months of the new Government, a number of bodies have been created and mechanisms set in motion which, in some cases, parallel or duplicate the institutions and participation mechanisms derived from or provided for in the agreements, such as the forums for reaching agreement on local development programmes and projects. Lack of coordination among the agencies of the central Government responsible for the broad strategic outlines of the peace agenda could hamper their ability to carry out their mandates properly and, in particular, the overall design and implementation of public policies. There is a risk that this situation could weaken both the institutions created by the peace process and the organizational and management capacity of the State to implement the Agreements.

13. The Mission notes with great interest the announcement by SEPAZ that priority will be given to allocating resources and building State institutions in areas of the country hardest hit by the internal armed conflict, where a significant percentage of the uprooted and demobilized population are living. The Mission believes that this approach will help to spread the benefits of the peace agreements and to promote genuine reconciliation in those areas, but it should not take the place of the commitments, still unfulfilled, made in the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict (A/48/954-S/1994/751, annex I) and the Agreement on the Basis for the Legal Integration of the Unidad Revolucionaria Nacional Guatemalteca (A/51/776-S/1997/51, annex II). The delay in fulfilling those commitments is seriously undermining legal certainty as to land tenure and the economic self-sufficiency of the intended beneficiaries, who played an important role in the drafting of the agreements, and will only increase their frustration, a situation that would not benefit the peace process.

14. At the end of the reporting period, the Congress of the Republic adopted Decree No. 40-2000, the Support for the Civil Security Forces Act. While the Mission again noted the urgent need to overcome the population's feelings of insecurity, it is deeply concerned that measures are being adopted which are not conducive to the demilitarization of public security or to the strengthening of civilian authority, as called for in the peace agreements. Despite the perception that

the National Civil Police (PNC) is given to excesses, no serious effort has been made to improve its operational, technical and training capacities. I have recommended on a number of occasions that the Government fulfil the commitments made under the peace agreements with regard to public security, namely: to set up the Advisory Council on Security; to implement the judicial reform in order to step up efforts to combat impunity; to substantially increase the capacity of the new PNC in all its aspects; and to adopt a comprehensive public security policy as soon as possible.

15. One of the main findings mentioned in my fourth report was the need to mobilize more resources for democratization and for the consolidation of the peace process. I should like to reiterate my deep satisfaction, already expressed in my 27 June statement in New York, at the signing of the Fiscal Pact for a Future with Peace and Development, the outcome of an extensive process of national consultation to define a long-term fiscal policy (see A/54/526, para. 35). This process, which was supported by MINUGUA as part of its good offices and technical assistance mandate, is without precedent in Guatemala's history and involved the participation of broad sectors of society: cooperatives, trade unions, social and mass organizations, academics, businessmen, departmental boards responsible for monitoring the peace agreements, coordinating bodies of civil society, women's organizations, political parties and indigenous organizations. I should like to acknowledge in particular the commendable work done by the members of the Follow-up Commission, both those who initiated the process in 1998 and those who helped bring it to fruition with the signing of the Pact. Various international financial institutions also contributed to the process.

II. Implementation of the peace agreements

A. Comprehensive Agreement on Human Rights

16. As in previous reports, this section deals with the commitments under the Comprehensive Agreement on Human Rights (A/48/928-S/1994/448) for which a time-frame was set in the Timetable Agreement. The Follow-up Commission gave priority to the issues of human rights and national reconciliation. It also stressed the importance of moving ahead with the implementation of the recommendations of the Clarification Commission, particularly those on the compensation programme, the creation of conditions for searching for the disappeared and the launching of the agency responsible for implementing the report's recommendations.

17. During the reporting period, the Mission observed substantial delays in implementing the National Programme of Compensation for and or Assistance to the Victims of Human Rights Violations during the Armed Conflict, presented by SEPAZ on 12 April 1999 (see A/54/526, para. 5). It is encouraging that SEPAZ has identified the readjustment of this programme as a priority in its strategic guidelines.

18. The Mission has monitored the execution of the two pilot programmes of assistance to victims of human rights violations. The three criteria which recipient communities must fulfil are that they were seriously affected by the violence; that they are living in extreme poverty; and that they have not benefited from assistance programmes. The programmes are being carried out in a number of communities in the departments of Chimaltenango, Quiché, Alta Verapaz and Huehuetenango. They cover the areas of health, education, housing, infrastructure, exhumation and restoration of dignity to the victims, and are being funded by the National Peace Fund (FONOPAZ), SEPAZ and the United States Agency for International Development (USAID). In addition, USAID and the Government of the Netherlands have pledged funding for other projects, including exhumations to be carried out by the Guatemalan Forensic Anthropology Foundation.

19. The purpose of the pilot projects is to provide information to help finalize the design of the national compensation and assistance programme. The Mission has found that the communities in which some of these projects have been carried out are pleased with them. The beneficiaries see them as reparation for the losses suffered during the armed conflict, but do not associate them with forgiveness and reconciliation. In reformulating the national compensation programme, it will be important to incorporate those missing dimensions. An ongoing dialogue among the State, the affected communities and organizations of civil society, particularly victims' organizations, must be instituted and maintained so that they can jointly assume the pressing task of national reconciliation. The

national programme must be launched as a matter of urgency and its technical and financial sustainability ensured as part of an ongoing, long-term effort to fulfil the State's inescapable legal and moral obligation to the victims.

Clarification Commission

20. On 15 November 1999, the Follow-up Commission, submitted to the President of the Congress the preliminary draft of a bill setting up a commission for peace and harmony, the text of which had been agreed upon with organizations of civil society, based on a preliminary draft prepared by the Multi-institutional Forum for Peace and Harmony and in keeping with the Mission's recommendations (see A/54/526, para. 22). The bill was presented to the full Congress on the last day of its regular session and was referred to the Congressional Committee for Peace and Mine Clearance, which issued a favourable ruling. However, it could not be voted on by the full Congress because the special December and January sessions did not have a quorum. In April 2000, the same congressional committee, with new members as a result of the general elections, unanimously issued a new, unfavourable ruling which has still to be submitted to the full Congress. The bill submitted by the Follow-up Commission reflects the spirit of reconciliation embodied in the recommendations of the Clarification Commission and has the consensus support of organizations of civil society. The Mission therefore considers it important for the national reconciliation process that this bill be debated and approved in the Congress as soon as possible.

21. The establishment of a commission for peace and harmony, as provided for in the SEPAZ strategic guidelines, would make it easier to address such critical issues as comprehensive policies on the search for the disappeared and on exhumations. At present, the only such initiative is the campaign to identify and locate clandestine mass graves which SEPAZ is carrying out as part of the pilot programme of assistance to victims in the departments of Huehuetenango and Alta Verapaz.

22. Lastly, the Mission notes with satisfaction the issuance by the Congress of Legislative Agreement No. 15-2000, which declares 25 February the day on which the Clarification Commission presented its report "Guatemala, Memory of Silence", Victims of Violence Day, in commemoration of the suffering of the Guatemalan people. The agreement also urges State agencies to act on the Commission's recommendations.

B. Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict

23. As indicated in previous reports, the early design and implementation of a comprehensive, long-term rural development policy, which was identified as a priority by the Follow-up Commission, is essential for consolidating the bases for sustainable productive integration and thereby ensuring the definitive reintegration of the uprooted population in conditions of dignity. At the same time, isolated initiatives, national and international, must be brought into the framework of regional development strategies aimed at overcoming the lack of production infrastructures. To that end, it is important to move ahead in fulfilling a number of commitments made with regard to rural development, land management plans, the promotion of public investment in rural areas and the allocation of specific resources to the competent institutions.

24. At the same time, the formulation of long-term social development policies should include: (a) the allocation of resources and the identification of institutional mechanisms that will facilitate the integration of the uprooted population and allow for the incorporation of elements of the special education plan into the official educational system; (b) reaffirmation in the new public health policy of the priority accorded to 13 specific projects, to help ensure that the goal of bringing comprehensive health care to 100 per cent of the uprooted population is attained by the end of 2001; and (c) disbursement of the fund of 200 million quetzales announced by the Government (see para. 53).

25. As indicated in my previous report, access to land and legal security of tenure continue to be priority issues for the uprooted population. The purchase of agricultural estates for Communities in Resistance has been completed, but resources have yet to be earmarked for ensuring that the process of socio-economic reintegration is sustainable. For the internally displaced population, only two more estates were acquired in addition to the two previously purchased. It is a matter of concern that the Land Trust Fund (FONTIERRAS) does not have sufficient funds to purchase the remaining 19 estates needed to reach

the target of 23 estates pledged in 1999. Moreover, for the estates already purchased, no specific funds have been allocated for moving in the new owners or providing basic services. This situation, in addition to revealing the inadequacy of the resources allocated to FONTIERRAS, shows how little has been done to comply with the commitment to devote special attention to the needs of the uprooted population.

26. Since the National Institute for Agrarian Reform was unable to complete the process of regularizing title to public lands awarded to the uprooted population, FONTIERRAS, through its Regularization Office, has assumed responsibility for the remaining cases. FONTIERRAS is preparing a priority project for those cases and hopes to complete the award of definitive title by November 2000. With regard to cases of compensation through the purchase of land for communities whose properties were occupied during the armed conflict, the inhabitants of the San José 20 estate were resettled during the reporting period and the National Peace Fund (FONAPAZ) is negotiating the purchase of an estate for the Cimientos Chiul community. FONTIERRAS has informed the Technical Commission for the Implementation of the Resettlemen. Agreement (CTEAR) that it does not have the funds to settle the three compensation cases pending to date. The Presidential Commission for Dispute Settlement in Land Matters (CONTIERRA) is handling six disputes that require the approval of specific studies before they can be finally resolved. The process of surveying, registering and awarding undeveloped land occupied by the uprooted population has not yet been completed.

27. Little has been accomplished in terms of sustainable productive integration. Project GUA/98/L04, entitled "Development of agricultural production", under which a few specific projects are being executed, does not meet the demand. The Trust Fund of the Consultative Assembly of Uprooted Population Groups/ Ministry of Agriculture, Livestock and Food is still at the negotiation stage. On the other hand, the execution of three major projects with a land management approach, funded by the European Union and with inputs from the Government, is about to begin.

28. The adoption of Decree No. 75-97 fulfilled the commitment to provide the uprooted population with personal documentation, although there were constraints on its implementation (see A/54/526, para. 12). In order to complete this process, the Government, at the request of CTEAR, is drafting a bill to extend the decree's duration. It would be advisable for the extension to be approved before 15 October 2000, when the current legislation expires.

C. Agreement on Identity and Rights of Indigenous Peoples

29. In my fourth report, I recommended that the new authorities should continue with the consultation and coordination mechanisms initiated in 1997 and follow up on the work already done by the joint commissions on land, official recognition of indigenous languages and educational reform as provided for in the Agreement on Identity and Rights of Indigenous Peoples (A/49/882-S/1995/256, annex). I also stressed the importance of keeping the issue of the preservation of holy places on the agenda and of taking up again the issue of procedures for the participation of indigenous people at all levels. The Follow-up Commission also set a high priority on strengthening the commissions created to deal with issues under the Agreement and on promoting implementing legislation. During the reporting period, no progress was made in addressing the main commitments made under the Agreement.

30. The Mission attaches particular importance to monitoring not only compliance with the specific commitments made under the Agreement but also the incorporation of a multicultural perspective into the design and implementation of public policies in the social, economic and cultural areas. A number of ministries are carrying out pilot decentralization projects based on new social participation structures, chiefly in the areas of health and education. In some cases, this process overlooks existing forms of participation, notably those of indigenous communities and their traditional authorities. The Mission recommends that the recognition of the legal personality of indigenous communities should be made effective and reiterates the importance of the commitment to create consultation mechanisms allowing indigenous people to participate in decision-making on public matters that concern them.

31. After submitting its proposal on the official recognition of indigenous languages, the joint commission on that issue was disbanded. The Government has not designated the institution that will follow up the proposal. The Permanent National

Commission for the Official Recognition of Indigenous Languages and the Academy of Mayan Languages of Guatemala prepared a preliminary draft of a bill on languages, but lack of funds has prevented it from being submitted to the linguistic communities for endorsement. The Mission urges the Government to make the necessary efforts to fulfil this commitment in its entirety and, in particular, to promote the use of indigenous languages in the delivery of State social services at the community level. In May 1999, the Follow-up Commission, with the backing of Maya spiritual leaders, presented a proposal to the Ministry of Culture and Sports on reactivating the Commission on Holy Places. The proposal, which was resubmitted after the change of Government, is intended to relaunch negotiations between the Government and spiritual leaders.

32. The Joint Commission on Reform and Participation proposed amendments to the Municipal Code and the Development Councils Act, but discussions on both proposals are at a standstill pending the formulation of decentralization strategy. The new representatives of the Government and SEPAZ are refocusing the Commission's work towards broader proposals covering issues of decentralization, participation and governance. The Mission trusts that the positive intention of broadening the opportunities for debate and consensus-building with other social actors will nevertheless respect the nature of this Commission, which has been judged an important mechanism for participation and consensus-building between the Government and indigenous peoples. With regard to access by indigenous people to public service, the Mission welcomes the appointment of members of the Maya people to high-level political posts. These appointments are a step towards improving relations between the State and indigenous peoples. However, the number of such appointments is still very small and is insufficient to reverse the traditional exclusion of members of the indigenous peoples from senior government posts.

33. The Joint Commission on Rights relating to Indigenous Peoples' Land continued its work, although it faced considerable difficulties owing to the turnover in its membership, particularly in the Government's representatives, and the absence of technical, logistical and economic support. The Mission notes that the commitments concerning land and natural resources are a key issue that transcends the economic use of land, is highly sensitive and offers considerable potential for social conflict. It is therefore urgent that the commitments relating to land contained in the peace agreements should be addressed comprehensively, especially those relating to the recognition and regulation of indigenous communities' land tenure, the use and management of their natural resources, the legal protection of communal land and the creation of an agrarian and environmental jurisdiction.

34. The proposal submitted by the Joint Commission on Educational Reform, which envisages an intercultural, bilingual education system in keeping with Guatemala's cultural and linguistic diversity, was welcomed by the Advisory Commission of the Ministry of Education. The Commission is currently planning a consultation process in the country's 331 municipalities, an effort that needs to be adequately funded. Given the issue's great importance for Guatemalan society and for the consolidation of peace, the Mission supports the SEPAZ proposal to give priority to the Joint Commission's recommendations and hopes that this will soon give rise to an appropriate plan of action.

35. The Mission notes with satisfaction the increase in the number of studies on indigenous customary law carried out by educational institutions and research centres. This should facilitate the discussion and drafting of legislative proposals for recognizing customary law and harmonizing its application with that of State law. The Mission has also noted that knowledge of indigenous languages has been included on the application form for posts in the judiciary; the form was used in the appointment of justices of the peace in the second half of 1999. In another development, the Congressional Committee on Indigenous Communities reopened its consideration and discussion of the bill amending the Penal Code to characterize discrimination as a crime. However, the current legislature has not put this important bill on its agenda for debate.

36. The General Assembly of the United Nations, in paragraph 3 of its resolution 54/99, took note with satisfaction of the establishment of the Office for the Defence of Indigenous Women's Rights as one element of the progress made in the implementation of the peace agreements. However, the Office's operational capacity and effectiveness could be undermined if it does not receive strong Government support in carrying out its mandate. The Government has

committed limited resources to its funding. On 27 June, COPREDEH signed a cooperation agreement with the Government of Sweden and the United Nations Development Programme (UNDP); the object of the cooperation project is to help the Office's Coordinating Board draft its rules of procedure and strategic deployment plan. The Mission shares the concern that the legislation setting up the Presidential Secretariat for Women does not recognize the Office for the Defence of Indigenous Women's Rights as a body with which it should coordinate on matters of public policy, programmes and projects relating to indigenous women, as proposed by a number of government bodies and organizations of civil society.

37. On the question of giving indigenous communities access to radio frequencies, the previous Government's proposal to make a number of amplitude modulation (AM) frequencies available to a committee of organizations of civil society in which indigenous peoples were represented was never acted upon (see A/54/526, para. 29). Recently, in response to one of the recommendations of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights of the Organizations of American States, the Government temporarily suspended the public auction of radio frequencies. The Rapporteur had proposed the suspension pending implementation of the commitments made in the Agreement to amend the Radio Communications Act so as to make radio frequencies available for indigenous projects.

D. Agreement on Social and Economic Aspects and the Agrarian Situation

38. This report will approach the status of implementation of the commitments made in the Agreement on Social and Economic Aspects and the Agrarian Situation (A/50/956, annex), from the standpoint of the public policy directions taken by the new Government. Like the previous report and given their centrality to the peace agreements, it will focus on fiscal issues and rural development, as well as on labour relations and social participation and development.

Fiscal policy

39. In drawing up the outstanding peace agenda, the Follow-up Commission indicated that one of the most important goals for the governance of the country was to give the State the necessary resources to meet its basic responsibilities, and that only a greater mobilization of national resources could ensure the growth in public spending needed to finance peace and development without causing macroeconomic imbalances.

40. In 1998, in view of the significant delay in meeting the agreed taxation target, the Follow-up Commission rescheduled that target to 2002. As part of the rescheduling agreement, it was proposed that the various sectors of society should take part in a process of national consultation on the country's fiscal policy. The Follow-up Commission set up the Fiscal Pact Preparatory Commission, which, after extensive consultation, produced a document, "Towards a fiscal pact in Guatemala", which served as a basis for reaching consensus. On 25 May, after an intensive process of dialogue and negotiation, over 130 organizations representing a broad spectrum of society, in the presence of the heads of the three branches of government, signed the Fiscal Pact for a Future with Peace and Development, which, in keeping with the peace agreements, sets forth the principles and commitments that should guide fiscal policy in the coming decade.

41. Subsequently, on 20 June, representatives of civil society and business, in a meeting moderated by the Follow-up Commission, signed the Political Agreement for Funding Peace, Development and Democracy in Guatemala, which sets forth specific measures for beginning the tax and administrative changes needed to build a new fiscal system. On 28 June, the signatories to the political agreement and representatives of the executive branch and the Congress of the Republic successfully completed negotiations on a set of fiscal measures to be implemented beginning in July and, progressively, throughout the rest of the year. The Mission believes that the content of the political agreement reflects the principles of sufficiency, sustainability and progressiveness laid down in the peace agreements and the Fiscal Pact, and it commends the efforts of the social and business sectors which signed the Political Agreement. The early entry into force of the agreed tax measures and their proper implementation should enable the tax burden, estimated at 9.2 per cent of the gross domestic product (GDP) for 2000, to reach the target of 12 per cent by 2002.

Rural development policy

42. Crucial commitments concerning the agrarian situation remain to be implemented, for instance, the establishment of an agrarian and environmental jurisdiction, the promulgation of a land registry act and the regularization of the award of title for lands granted by the former National Institute for Agrarian Reform and lands belonging to indigenous communities. The agrarian policy proposal drawn up by the Ministry of Agriculture, Livestock and Food omits such fundamental issues as the land rights of indigenous communities, legal reforms in the agrarian sphere, the need to increase the land assets of FONTIERRAS by regularizing and recovering illegally awarded State lands and the need to give priority to uprooted populations. Moreover, a comprehensive rural development strategy, one of the key commitments in the Agreement, still remains to be designed.

43. The agricultural policy for the period 2000-2004 presented recently by the Ministry includes guidelines for assisting small farmers but no specific investment plans for promoting their development. It has no guidelines on how to take account of multiculturalism or how to guarantee the right of indigenous peoples to be involved in decision-making on their own development. Policies for the participation of women and rural youth must also be translated into adequately funded programmes and projects which include affirmative action for giving those sectors equitable access to resources and services and which also consider the multicultural dimension.

44. Positive steps have been taken to formulate an environmental policy that is consistent with the content of the peace agreements. The Government's strategic priorities in this area include ensuring that environmental policies are integrated and cross-cutting and, in the area of land management, defining and integrating national environmental policies and promoting public participation through consensus. The Mission reiterates the importance of complying with the commitments made in the peace agreements with regard to the environment and natural resources, including the right of indigenous communities to take part in their management.

Labour relations

45. In its report on this issue, the Mission noted that there was a glaring disproportion between the magnitude and complexity of the country's labour problems and the human and material resources allocated by the State to overcoming them. It also noted that labour issues play a secondary role in political decision-making. The scant development of a social dialogue, the multiple weaknesses of social organizations, the lack of institutional cohesion which characterizes the Ministry of Labour, the slow and ineffective functioning of the judicial system and the serious violations of trade union activists' fundamental human rights all make up a picture which is far from encouraging and which must be tackled by resolutely fulfilling the commitments made in the peace agreements.

46. The agreements envisage a growth strategy which will include an improvement in wage-earners' incomes. The Mission therefore welcomes the increase in the minimum wage and in bonuses decreed in early 2000. In order for those increases to benefit workers, it must be ensured that the wages are actually paid, especially in rural areas. Accordingly, the Ministry of Labour will have to be strengthened both financially and institutionally. Measures will also have to be taken to help those categories of workers, such as female agricultural workers and domestic employees and child workers, for whom it is very difficult to secure payment of the corresponding legal minimum wages.

47. The Mission is gratified that the President of the Republic has sent to the Congress a bill containing amendments to the Labour Code that would bring national legislation into line with the standards set by International Labour Organization conventions. The Mission will monitor the bill's progress and hopes that other commitments requiring legislative changes, for instance, those on vocational training or the revision of labour legislation concerning women, especially women working in private homes, will also be acted upon shortly. In the area of labour negotiations, there have been some recent noteworthy attempts at the regional level, for instance, in the department of Izabal, to create permanent forums for the prevention and resolution of various labour problems.

Social development

48. The Mission has already reported on the progress made in meeting the targets for health and education coverage and infrastructure investment. However, Guatemalans still do not see the peace process as having brought about any major, tangible

improvements in their lives. If they are to commit themselves firmly to that process, they must be able to feel that their living conditions have improved as a result of the peace agreements. The Follow-up Commission has said that it will pay special attention to the fulfilment of the health, education, housing, employment and social security commitments made in the agreements, both as regards administrative policies and decisions and as regards the budget allocation for the next fiscal year.

49. During the verification period, progress in fulfilling the commitments on social development encountered serious obstacles. The execution of public investment in the social sphere was delayed because the new authorities took a long time to review and evaluate programmes aimed at meeting the coverage targets set in the peace agreements and also to formulate new social policies. Moreover, the almost 20-per-cent cut in the approved budget, except for health, education and security, affected the State's physical and financial investment capacity. The budget cuts affected not only public investment in the country's poorest areas, but also the funding of many commitments scheduled for implementation in 2000. As a result, in the first six months of this year, very little progress was made in meeting the targets for social investment and for coverage and quality of social services.

50. In 1999, public spending actually slightly exceeded the target set in the peace agreements. For 2000, the social sector budget is 3,854,300,000 quetzales (approximately US$ 500.6 million). The Mission found that, by the end of May, only 31 per cent of this amount had actually been disbursed. Although the Ministry of Education was not directly affected by the budget cuts, some budget lines related to the fulfilment of commitments under the peace agreements were cut. These included the out-of-school education programme and the training of teachers and school administrators. The Mission is also deeply concerned at the fact that the civic education programme is still receiving no State funding, despite its crucial importance for shaping a new civic and democratic culture.

51. The Ministry of Education has announced publicly the new education policy for the period 2000-2004, as well as the implementation of the national literacy programme which it hopes will reduce the illiteracy rate to around 15 per cent within four years and will benefit 2.8 million people. The Mission welcomes this initiative, which envisages the broad participation and solidarity of different sectors of society and will involve close cooperation between the Ministry of Education and the National Literacy Committee. The first literacy day is scheduled for the period October 2000-March 2001, but as yet no resources are available to fund it. The Mission also welcomes the launching of a number of experimental programmes for teaching literacy bilingually, in Mayan languages and Spanish simultaneously, which are being supported by the international community and the United Nations. It is gratified that programmes are being launched which reinforce bilingualism and it will monitor their progress closely.

52. In 1999, public spending in the health sector amounted to 1,899,700,000 quetzales (US$ 246.7 million), substantially more than the target set for that year in the peace agreements. The budget approved for 2000 is 2,029,700,000 quetzales (US$ 263.6 million), an amount which is consistent with the target set in the peace agreements but only 29.2 per cent of which had been disbursed by May 2000. With regard to the new health policy, the Ministry published the National Health Plan 2000-2004, the basic objectives of which are: to bring health care to population groups not previously reached by such services, especially indigenous women and migrant workers; to provide for women's overall health needs; to give renewed importance to traditional medicine; to decentralize health care; and to improve coordination within and among sectors. In connection with decentralization, it proposes the design and implementation of a pilot plan in those communities which lag farthest behind in terms of health and sanitation services. It also includes plans for promoting women's health, such as adequate access to prenatal care and childbirth services. The Mission commends the Ministry's approach of moving beyond the monitoring of maternal health to monitoring the health of families, including children and adolescents, meeting women's overall and reproductive health needs and promoting responsible parenthood.

53. In 1999, the budget allocated to the housing sector was 393,900,000 quetzales (approximately US$ 51.2 million), which was more than the target set in the peace agreements. Nevertheless, verification revealed serious shortcomings in fulfilling a number of commitments in that area (see A/54/526, paras. 52 et

seq.). For 2000, the resources allocated are equivalent to 2 per cent of tax revenues, again exceeding the target. However, the suspension of the activities of the Guatemalan Housing Fund (FOGUAVI) during the period from January to May and the closure of its departmental offices are cause for considerable concern. None of the budget of 295,300,000 quetzales (approximately US$ 38.4 million) was disbursed during that period. In addition to causing unemployment in the construction industry, the suspension of the Fund's activities, coupled with the delay in formulating a new housing policy, is causing growing discontent among the affected populations. At the end of the period, the Ministry of Communications, Transport, Public Works and Housing announced the allocation of 200 million quetzales (approximately US$ 25 million) to providing housing for uprooted and demobilized populations. It is essential that FOGUAVI resume its activities as soon as possible and that a comprehensive housing policy be defined and implemented which gives priority to low-income groups. Such a policy will have to envisage integrated approaches within the framework of land management programmes.

Social participation

54. The system of development councils does not as yet constitute a mechanism of social participation and consultation. The development councils have made progress as forums for allocating the budget of the Solidarity Fund for Community Development and for approving municipal projects. However, organizations of civil society are still not participating in the councils as fully as they should. Verification shows that, in some municipalities, the decision to bring new social actors into the councils is left to the mayor, in the absence of an institutional policy to that effect. It is also important that the councils be given an effective role in the preparation of medium- and long-term development plans.

55. In its previous report, the Mission mentioned the adoption of the new Executive Branch Act and reiterated that it was important for enhancing the standing of the departmental governorship that, in the elections to be held at the beginning of 2000, governors should be elected according to the procedure established in the Act. It is cause for concern that the procedure followed for appointing the current governors ignored candidacies put forward by the non-governmental members of departmental development councils, despite the stipulations of the Act. While it is true that in some cases non-governmental representatives were unable to arrive at a consensus on candidates, candidacies were put forward in a number of departments. Although the executive branch took some action to rectify the situation, almost all the governors were confirmed in their posts.

56. With regard to the Women's Forum, locally-based processes developed differently from the Coordinating Commission for the Women's Forum, in some cases gaining a legitimacy that had an impact on local and departmental power structures. This marks a qualitative step forward from participating to actually influencing decision-making processes. It is therefore strategically important that these women's organizational structures should broaden their bases and take on the role of monitoring compliance with the policy proposals which they themselves generated through their participation in local consultations. The nature and composition of the Coordinating Commission must also be reformulated in order to make the Forum's outcomes binding and give it the coordinating and influential role that will enable it to comply with the provisions of the Timetable Agreement on monitoring the commitments related to women.

57. In its previous report, the Mission acknowledged the determination of the executive branch to produce a single policy document on equity and emphasized the need to create a lead agency at the highest level to ensure compliance. In this connection, it welcomes the Government's commitment to development and social equity expressed to the General Assembly of the United Nations at its twenty-third special session, entitled "Women 2000: gender equality, development and peace for the twenty-first century". The establishment of the Presidential Secretariat for Women, as an advisory and public policy coordinating body for promoting the all-round advancement of Guatemalan women and the development of a culture of democracy, represents progress in raising the level of the national machinery for the advancement of women. It is hoped that this new institution will play an active role in the implementation of the National Policy for the Advancement and Development of Guatemalan Women: Equal Opportunity Plan, the outcome of consultations among various institutions and women's organizations. The Secretariat should also mark a stage in the transition towards autonomous

national machinery at the highest level, as advocated for over a decade by various women's organizations. The Mission likewise hopes that the Secretariat's rules of procedure will reflect the consensus agreements arrived at by various governmental institutions and women's organizations in preparing the proposed governmental agreement submitted to the President of the Republic. Those rules should define the mechanisms whereby the Secretariat will coordinate with institutions created under the peace process and engage in a dialogue with their representatives.

E. Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society

58. The verification period saw the entry into force of the Career Judicial Service Act, an important landmark in the process of strengthening the administration of justice. However, a number of judges and magistrates expressed concern about the Act's implementing regulations, approved on 26 February, which include some rules that conflict with the letter and the spirit of the Act. In particular, the Mission is concerned that adopting different judicial opinions in similar cases is classified as a misdemeanour. Requiring judges to abide by their own precedents limits the independence of the judiciary, in contravention of article 203 of the Constitution. The Judicial Civil Service Act, another important landmark in the modernization of the judiciary, was adopted on 30 November 1999.

59. In December 1999, the Ad Hoc Commission, which had taken over from the Commission on the Strengthening of the Justice System set up under the Agreement, completed its work. The Ad Hoc Commission's tireless efforts earned it the recognition of the Government and society. On 5 January 2000, the National Commission for Monitoring and Supporting the Strengthening of the Justice System, made up of representatives of judicial institutions and other citizens and responsible for advising on and supporting the modernization, reform and strengthening of the justice system, took up its functions. It has since prepared a five-year strategic plan. The Mission is continuing to advise the Commission and believes that this important forum must be supported by society, the authorities and the international community. In May, the regional and national assemblies of judges and magistrates were held and culminated in the election of judges' and magistrates' representatives to the Career Judicial Service Council. The Mission observed the elections and considers them to have been democratic and transparent, getting the process of creating a career judicial service off to a good start. The strengthening of the selection, training and evaluation mechanisms which go to make up the career judicial service will depend on the efficiency with which the Council, which needs to be set up as soon as possible, performs its task.

60. *With regard to the commitment to amend the* Penal Code, the Agreement establishes that the reform of the administration of justice, a process which began with the enactment of the Code of Criminal Procedure in 1993, must culminate in the adoption of modern criminal legislation which limits the sphere of action of the criminal justice system to the prevention and punishment of conducts genuinely detrimental to society. Accordingly, the reform must aim to ensure that the settlement of ordinary disputes is handled by other branches of the judiciary, such as the family, labour or administrative courts, or through conciliation or other alternative solutions. The parties also agreed that the amendments to the Penal Code should take into account the country's multicultural nature, bring the Code into line with the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination and characterize ethnic discrimination and sexual harassment as crimes (see para. 36).

61. The Mission notes with concern that the various initiatives proposed thus far, some of which have been passed into law, reduce the process of amending the Penal Code to imposing stiffer sentences for certain crimes. Universal experience has shown that the adoption of such measures, as quick fixes to the rise in crime, is ineffective in lessening the volume and seriousness of crimes. The penal system will neither act as a deterrent to criminal activity nor be an effective remedy to impunity as long as society and the public authorities fail to take substantive decisions aimed at improving the functions of prevention, investigation and prosecution, as well as the prison system.

62. The period under review witnessed scant progress in strengthening the Public Prosecutor's Office. The Office of the Attorney-General is carrying out a project to monitor local prosecutor's offices which, with the exception of Zacapa, have completed the restructuring process carried out under the UNDP-financed

Programme for the reorganization of district and municipal prosecutor's offices. The San Juan Sacatepéquez district prosecutor's office and the anti-corruption unit were established. The latter's jurisdiction has not been clearly defined and it has yet to make tangible progress in its important work.

63. In April, the Mission published a verification report on the situation in Guatemalan prisons. The report highlighted serious deficiencies in infrastructure, trained personnel and prison security, which have led to a large number of escapes, as well as overcrowding and deplorable living conditions for inmates, more than 60 per cent of whom are still awaiting sentencing. Attention is drawn to the basic agenda for prison reform, contained in that report, which includes recommendations to the relevant State institutions. The Mission will follow closely the debate in the Congress on new legislation governing the prison system, in the light of the provisions of the peace agreements and the international norms binding on Guatemala.

Public security

64. This issue remains one of the public's chief concerns. During the period under review, the public perception of heightened insecurity and criminal violence continued to grow. At the same time, frequent changes in the PNC command structure created the feeling that the institution was unstable. The widespread impression of police ineffectiveness coupled with strong criticisms, culminated in the dismissal of the recently appointed Director of the National Civil Police and the designation of a new director with extensive experience in this type of public service.

65. With regard to police rules and regulations, a number of reforms were introduced, including the creation of an anti-kidnapping squad as a specialized unit for preventing, investigating and prosecuting the crimes of abduction or kidnapping and extortion. In this connection, the Mission expresses its concern at the withholding of the identify of investigators and operatives for a 10-year period, a provision which could undermine the principles of accusatory criminal proceedings in force in Guatemala.

66. The National Civil Police is currently deployed in all 22 of the country's departments and covers 307 of its 331 municipalities. There are 27 departmental police stations, 137 stations and 330 substations, with district police stations yet to be organized. Despite their increased presence in the territory, the infrastructure and equipment of police units remains inadequate. Coupled with this, a serious management crisis is adversely affecting logistics, particularly fuel supplies, spare parts and vehicle maintenance.

67. The PNC force has 16,205 members, of whom 6,273 (39 per cent) are new recruits and 9,932 (61 per cent) come from the former security forces. Ten per cent of the force (1,692 are women, most of whom do administrative work and do not as yet have access to higher-level and managerial posts. The number of indigenous people who apply and are selected, trained and deployed remains low. There are currently 1,082 police who speak an indigenous language, but some are assigned to places where the language they know is not spoken. Lastly, the Mission notes that, in general, the PNC regime of confinement to barracks is affecting the police morale and preventing the provision of a better public service and, hence, the development of a relationship with the community. The current system requires police to alternate 24-hour shifts with 24 hours' rest on call at the police unit, with only four days' off per month. The situation is even worse for police assigned far from home.

68. The Police Academy has continued to train new police recruits and has completed the retraining process of former members of the National Police and Treasury Guard. Given the worrying shortage of new police recruits, it is essential that the Government pursue a resolute policy of recruiting throughout the country and particularly in indigenous areas, in order for graduates of the Academy to have a positive impact throughout the new police force. It is also important to move ahead with the process, already begun by the new authorities, of adapting curricula to the country's requirements and to the need to develop police practices aimed at ensuring respect for human rights and the strengthening of administrative and operation capacities. The Mission reiterates the need to strengthen police training at all levels. This will entail developing specialized training, promoting the training of new and incumbent high-ranking officers, supporting efforts to build a relationship with the community, defining police doctrine, promoting a scholarship policy and the teaching of indigenous languages and making progress in establishing a degree course in public security and police science.

69. The Mission reiterates its concern at the lack of development of the PNC information and criminal investigation services. Three years after its creation, the Criminal Investigation Service is still deployed in only 14 departments and its staff has not increased significantly. These constraints are preventing the State from guaranteeing the efficient criminal investigation that is essential for effectively combating crime and impunity. Likewise, the Mission found that the Police Information Service, whose main function is to support the fight against crime, particularly organized crime, has been seriously weakened and needs its institutional role to be clearly defined.

70. Notwithstanding efforts to modernize the disciplinary section and the Office of Professional Accountability of the National Civil Police, the Mission considers it essential to create higher oversight mechanisms to monitor the overall functioning of the police, in terms of both its procedures and its operations. In this regard, it is concerned at the regulation of dismissal for "acts which seriously affect the prestige of the institution", which leaves the characterization of the act to the discretion of superiors and also offers an alternative to disciplinary and administrative proceedings.

71. SEPAZ has included the promotion of the Public Order Act and the Civic Service Act and the establishment of the Advisory Council on Security among its priorities for 2000. These are outstanding commitments whose importance has been reiterated constantly by MINUGUA and whose implementation depends basically on the Government's political will. I trust that the authorities will take all necessary steps to fulfil these commitments and observe the priorities established by SEPAZ, thereby strengthening the peace process legally and institutionally.

72. The Mission's verification found that, up until the end of 1999, the functioning, structure and composition of the Strategic Analysis Secretariat violated the provisions of the peace agreements. Its composition did not respect the civilian nature of the institution as provided for in the Agreement, in that over half its members were military personnel, some of whom held strategic management positions. With the change of government, progress has been made in ensuring that the Secretariat is strictly civilian. MINUGUA will pursue its verification to ensure that this situation is maintained.

73. On 9 June, the Secretariat authorities submitted their plan of work, which includes the organizational restructuring and functional rethinking of State intelligence mechanisms. They indicated that the Secretariat's mission is to advise the President on the creation of institutions for participatory democracy and development with equity by providing information and situational and forward-looking analysis for decision-making purposes. The guiding principles of the reform exercise will be respect for human rights, legality, transparency and trust. MINUGUA welcomes with interest the announced initiative and will continue to verify its implementation and to ensure that the Secretariat does not carry out its own covert investigations.

Armed forces

74. The peace agreements lay the groundwork for improving civilian-military relations and redefining the role of the armed forces. Despite the constraints imposed by the failure to ratify the constitutional reforms, the Follow-Up Commission gave priority to these commitments and highlighted the need to make progress in such areas as the modification and adaptation of military doctrine, the strategic territorial deployment of the armed forces and the reform of State intelligence and of training programmes.

75. With regard to the reduction of the armed forces budget as provided for in the peace agreements, unfortunately, the sum allocated — 913.6 million quetzales (approximately US$ 118.6 million) — failed to meet the agreed reduction target; this is a clear setback in fulfilling that commitment. It is also particularly serious that, according to official information received by the Mission, during the previous Government FONAPAZ transferred proceeds from the sale of State assets for the purchase of military equipment. In addition to being completely contrary to the objectives of FONAPAZ, this indirectly increased the amount of the armed forces budget.

76. The Mission informed the authorities of the findings of its verification of the deployment of the armed forces during the period under review. It, inter alia, expressed concern at the appropriateness of maintaining the same geographical deployment in the Ixil area as during the armed conflict and at a number of units whose presence is not strictly justified by national defence objectives. It should be noted that, since the present Government took office and the

verification findings were made known, some progress has been made, including the decommissioning of more than 30 units and the dismantling of the Maya Task Force and relocation of its units, as recommended by the Mission. The military authorities have indicated their readiness to continue with redeployment. These developments are very positive and the Mission will continue to verify very closely that the commitment on redeployment is fulfilled in accordance with the national defence objectives established in the peace agreements.

77. On verifying the civilian affairs units in military zones, the Mission was disturbed at some aspects of the role which they play. Within the units, terminology is still being used which is incompatible with the relationship that must exist between society and the armed forces now that the armed conflict is over, for instance, "psychological operations squadrons", "ideological specialist sergeants" or "ideological operators". The Mission has also observed that the so-called "area reports" prepared by civilian affairs units include assessments as to citizens' political ideology, their interest in or indifference to the political system, local leaders or links to the internal armed conflict. Such activities with regard to the population are incompatible with the role of the armed forces in a democratic, peaceful society and seriously violate the peace agreements. Moreover, in a number of cases, the Mission was not allowed to see the content of these reports, which violates the Government's commitment to extend whatever cooperation the Mission requires for the performance of its functions. These incidents prompted the Mission to send a communication to SEPAZ and to the Minister of Defence.

78. The proposed "doctrinal manual of the Guatemalan armed forces", submitted in late 1999 by the previous Government, did not meet expectations of fulfilling the commitment on the formulation of a new doctrine as mentioned in my previous report. The manual had a number of defects and focused almost exclusively on military aspects. The present Government took over this manual, which it views as a working draft, and has expressed its willingness to include more sectors in its discussion. Within civil society, an academic project is under way in this regard, involving representatives of both State institutions and a broad spectrum of social and political organizations, active and retired members of the armed forces, non-governmental human rights organizations and academic and research institutions. Th has created a renewed opportunity fo between the armed forces and civil socie issues as the concept of security and t agenda, military doctrine, democratic con armed forces and the redefinition of the armed forces in a democratic society. The these discussions may be an important inp defence policy, including military doctrine

79. The Congress of the Republic began di the proposed amendments to the Act estab armed forces, submitted by the execut pursuant to the peace agreements. W framework of its mandate, the Mission con its observations on the content of the p SEPAZ and held information meetings Congressional Committee on Defence. B constitutional reform was not ratified in referendum, the proposal, which creat equivalent to general to enable a civi appointed Minister of Defence, has been s the Constitutional Court. The Mission will process closely to determine the compatib reform with the peace agreements.

80. The commitment made by the Government to disband the Presidential G before the end of its term of office was n The new Government has made some progr fulfilling this commitment by including the of the General Staff in its draft amendment establishing the armed forces. It also esta Secretariat of Administrative Affairs and the Presidency of the Republic, recruited the Secretariat's first group of personnel rules governing its structure and function has given priority in its strategic gu continuing the process of disbanding the General Staff. The Mission will verify that of fulfilling this commitment is completed possible and that the new institution is in k the provisions of the Agreement.

81. The commitments on using the ar munitions factory to meet the needs of t Civil Police and on the disposition of the frequency assigned to the Guatemalan arme nearing fulfilment. In the former case, fo corresponding technical studies, it was deci high cost of launching a new manufactu cover the needs of the civilian public sec

would make it uneconomical. In the latter case, while there has been de facto fulfilment, in that the armed forces no longer use the television frequency, the Mission is awaiting official notification from the Government of the decisions on its reassignment.

82. The Mission is extremely concerned at the content and potential impact of the application of the recently adopted Support for the Civil Security Forces Act. As already indicated, the participation of the armed forces in public security tasks is a major setback for the process of demilitarizing public security pursuant to the peace agreements. Moreover, in the Mission's view, the Act contains serious legal ambiguities and reflects a public security policy that does not include the qualitative and quantitative strengthening of the National Civil Police. The massive reincorporation of the armed forces in public security tasks will affect their modernization, with respect to both their continued redeployment and the rational use of resources for national defence functions. Moreover, earlier MINUGUA verifications show that failure to provide members of the armed forces with specialized training in public security tasks poses a potential risk to the full enjoyment of human rights.

F. Agreement on Constitutional Reforms and the Electoral Regime

Electoral regime

83. The draft amendments to the Elections and Political Parties Act are being discussed in the Electoral Affairs Committee of the Congress of the Republic. The basis for this discussion is the preliminary draft submitted by the Supreme Electoral Tribunal, which reflects the consensus reached within the Electoral Reform Commission. The Congressional Committee has launched a broad debate on the amendments and is receiving proposals on this issue from women's organizations, civic committees and the Chamber of Communications and Radio Broadcasting of Guatemala. Despite the support for the amendments expressed by the President of the Republic and the President of the Congress, the Mission is concerned at the slow pace of the legislative process of consensus-building and subsequent drafting of favourable ruling that would permit the parliamentary debate and the adoption of the necessary electoral reforms. As the Mission has already indicated, those reforms could contribute to greater public participation in the political process and to the strengthening of the democratic system and political parties.

G. Agreement on the Basis for the Legal Integration of the Unidad Revolucionaria Nacional Guatemalteca

84. During the period under review it was observed that the unease, mentioned in other reports, which demobilized population groups were feeling at implementation delays had evolved into a perception that compliance with the agreement as a whole (A/51/776-S/1997/51, annex II) was at a standstill. The Mission reiterates the importance of timely and effective compliance with this Agreement for the consolidation of the peace process and for democratic governance.

85. In 1997, the Mission verified the successful demobilization process and the beginning of the initial integration of URNG as provided for in the peace agreements, and stressed that this was one of the most important developments in the peace process. In November 1998, the Mission verified the conversion of the former rebel movement into a political party, a process that was free of violence and acts of reprisal and was viewed as a major advance in the national reconciliation process. URNG participated for the first time as a political party in the elections held at the end of 1999, winning nine seats in the Congress and 13 mayoral posts as a member of the Alianza Nueva Nación.

86. Compliance with the commitments on the demobilization and initial integration of former combatants contrasts with the continuing difficulties in their definitive integration. The period under review was again characterized by serious delays in the implementation of production projects for most of them and difficulties in integrating them into the workforce. The delay in making available some contributions pledged by the international community, which has now been overcome, was compounded by the lack of national counterpart funds for the Programme of Support for the Reintegration of Former Combatants (PAREC II) which is targeted at this population. I should like to stress how important it is that the Government fulfil its commitments in this regard, which are essential for the effective implementation of the Agreement, especially by guaranteeing its

counterpart contributions to the support provided by the international community. In addition, the implementation of the approved production projects must be speeded up and the terms of the PAREC II credit component must be made more flexible.

87. Implementation of the programme of production projects began after a delay of over a year (see A/54/526, para. 85). It is hoped that the programme will benefit nearly 1,500 demobilized combatants, in other words, approximately half the total demobilized population. Execution of another programme of community production projects, financed by the European Union, will begin in the next few months and will benefit 25 communities in which demobilized persons are living. The integration of demobilized women continues to face additional difficulties since, while projects include women as beneficiaries, no specific measures have been envisaged to facilitate their access to such projects.

88. The design of the comprehensive programme for disabled persons, which will benefit URNG, the armed forces and civilians disabled in the armed conflict, has been completed. This programme, which consists of production projects, social organization and participation and comprehensive health care, has no government funding for the health care component. The production projects will shortly be assisting 267 disabled persons, with financing provided mainly by the international community. The subprogramme for exhuming the bodies of URNG members killed in combat is still awaiting receipt of the funds pledged by the Government and completion of the necessary legal procedures.

89. With regard to the housing component, 891 housing units, financed from a special budget of the previous administration, are being built for uprooted and demobilized population groups. The new authorities in the housing sector have expressed their readiness to continue serving those population groups (see para. 53). Access to land for 13 applicant groups (411 families) which include 275 demobilized persons is being affected by the budgetary constraints under which FONTIERRAS is operating.

90. In the light of the foregoing, I reiterate my recommendation that the Guillermo Toriello Foundation be strengthened. The Foundation is crucial to the continuation of the still fragile integration process and its limitations are preventing it from contributing effectively to overcoming the glaring deficiencies noted in the implementation of this Agreement. I invite the international community to pursue efforts to strengthen the Foundation and urge the Government to provide it with the support it needs to perform its tasks.

III. Final observations

91. In my fourth report, I referred to the challenge of continuing the peace process, from the standpoint of both consolidating what had already been achieved and complying with the outstanding agenda. Accordingly, I should like to reiterate my satisfaction at the fact that the present Government, at its inauguration, pledged to continue the process and reaffirmed the principle that the peace agreements are commitments of State. The various protagonists of the peace-building process must carry out the priorities established at the current stage while simultaneously complying with the full range of commitments required by the peace process. It is also particularly important that the Follow-up Commission again undertake the exercise of rescheduling the commitments that have not been complied with and scheduling the ones not contained in the Timetable Agreement.

92. The Fiscal Pact and the Political Agreement for Funding Peace, Development and Democracy, which were arrived at through a methodology of broad participation and consultation in the political, social and economic spheres, are a major achievement from the standpoint of the political philosophy underlying the peace agreements. In Guatemala, whose recent history has been marked by confrontational and exclusionary attitudes that led to the use of violence as a political tool, it is important to continue to make progress in building a new culture based on dialogue and social consultation among the various sectors and cultures. The Fiscal Pact experience is a major step forward in the national reconciliation process and should guide the work of reaching consensus on other issues of special significance to the peace process.

93. Using similar methodologies will make it possible to take new steps such as those provided for in the governance pact, which is aimed at establishing a national anti-poverty strategy based on full compliance with the peace agreements, especially the Agreement on Social and Economic Aspects. This should

contribute to overcoming the structural causes that gave rise to the armed conflict and to eradicating socio-economic exclusion processes, ensure rapid, equitable and fair economic growth and achieve a higher level of human development for Guatemalan society.

94. The increased mobilization of national resources that will result from the approval and implementation of the tax measures agreed within the framework of the Fiscal Pact will give the State the capacity to finance adequately a large number of commitments whose fulfilment has been affected by lack of resources and budget cuts.

95. The depth and extent of poverty and social exclusion in rural areas require a concerted effort to promote an institutional framework for the design and implementation of a comprehensive rural development strategy that will create and strengthen the socio-economic foundations of democracy. The immediate formulation of a comprehensive rural development policy is one of the priorities established by the Follow-up Commission, particularly in the light of the significant delays in the implementation of a number of commitments relating thereto.

96. In my previous report, I mentioned that the quantitative aspects of the commitments relating to the armed forces had been complied with and I stressed the need to speed up the outstanding qualitative restructuring. To this end, the commitments relating to redeployment and to the elaboration of a new doctrine with the participation of social and academic sectors must be complied with fully and the necessary changes must be made in the educational system of the armed forces. In particular, the Presidential Military Staff must be disbanded and military intelligence must be transformed, so as to limit it to the role of the armed forces in a democratic society.

97. On several occasions I have reiterated the recommendation to comply with the commitments made in the peace agreements with regard to public security, namely, to establish the Advisory Council on Security; implement the judicial reform in order to step up efforts to combat impunity; markedly strengthen the capacity of the new PNC in all its dimensions; and rapidly adopt a comprehensive public security policy. During the period under review, the Mission took note of the reform of the Act organizing the National Civil Police carried out on the occasion of the appointment of the first PNC Director under the current administration, which, along with a number of internal changes, generated uncertainty and bewilderment among police personnel and affected the process of restructuring the career police force. I should like to reiterate the urgency of taking timely steps to strengthen the new police force adequately. To this end, PNC must be provided as soon as possible with the resources needed for its comprehensive development, which will in turn increase its effectiveness in preserving public security. At the same time, it is essential to continue the professionalization of its members and to ensure their strict adherence to police practices that are consistent with respect for human rights.

98. Pursuant to the agreements, education should play the role of affirming and disseminating concepts and behaviours conducive to a democratic pluralism that respects human rights and cultural diversity, civic values and the mechanisms of public participation. The Mission deems it especially important that the Government grant the financing needed to carry out the National Literacy Programme, which must preserve its bilingual dimension, and the Civic Education Programme, which is essential to the process of building a civic and democratic culture in Guatemala. The Advisory Commission on Educational Reform will carry out a broad consultation process prior to the implementation of the Programme. It should be kept in mind that the new educational policy must aim to establish new models for democratic pluralism, promote technical and scientific progress and strengthen Guatemala's integration into the major processes of international transformation.

99. In order to strengthen functional, participatory democracy and overcome the historic exclusion of large population groups from the political life of the country, pursuant to the agreements, priority must be given to the reform of the electoral system. The Congress and political parties, especially the ruling party which has a parliamentary majority, have an inescapable responsibility to bring the process of discussing and approving the electoral reform to a close, within the framework of the agreement reached in the Electoral Reform Commission established pursuant to the agreements. I should like to recall the need to complete this reform before the next electoral process makes it difficult for agreements to be reached among the actors concerned. In addition, reforms as important as the single documentation reform require

longer periods for their technical development and implementation.

100. It is urgent to put in place a genuine public policy of fostering collective bargaining which will promote the development of consensus methods of dealing with labour disputes. This policy should, include as a minimum, completion of the process of adapting the substantive and procedural legal framework to the requirements of the international norms governing collective bargaining and trade union freedom. The State institutions responsible for labour issues should be modified to ensure a planned approach throughout the country which includes educational, preventive and promotional elements, and has a budgetary allocation sufficient to make it sustainable. It is also to be hoped that other commitments requiring changes in the legal framework, such as those on vocational training or the amendment of labour laws regarding women, with special attention to women working in private homes, will also be complied with as soon as possible.

101. The agreements attach special importance to the commitments promoting the decentralization of the State and the institutionalization of social participation in State decision-making bodies. In order to attain these goals, it is essential that the Government define, as soon as possible, its strategy with regard to functional and territorial decentralization. In this sphere, the regional and departmental levels, and also the municipal and community levels, will have to be taken into account. Defining this strategy will allow the proposed reforms to the Development Councils Act and the Municipal Code to be taken into account by the Congress, pursuant to the recommendations of the Joint Commission on Reform and Participation.

102. The Mission has repeatedly stressed the importance for the consolidation of peace in Guatemala of compliance with the commitments contained in the Agreement on Identity and Rights of Indigenous Peoples. In the preamble to that Agreement, the parties recognized that the discrimination and exploitation to which indigenous peoples have been subjected have profoundly affected their rights and denied them the full exercise of political participation. Such an essential aspect of the peace process requires the firm backing of the Government and the support of indigenous organizations representing the cultural, ethnic and linguistic diversity of the country. The process of building national unity requires the integration of an intercultural perspective and of the important economic, social and cultural contributions of the indigenous peoples of Guatemala.

103. The parties recognized that women as a group have been historically excluded and discriminated against in Guatemala from the standpoint of their rights and that their full integration on equal terms in the political, economic and cultural life of the country is an inescapable task. In the context of compliance with the commitments relating to women, the Mission reiterates the importance of having the Presidential Secretariat for Women coordinate the implementation of the National Policy for the Advancement and Development of Guatemalan Women: Equal Opportunity Plan, which reflects the consensus proposal of the linguistic and multisectoral communities within the Women's Forum.

104. The Mission commends the strategy announced by SEPAZ, in which priority will be given to allocating resources and building State institutions in areas hardest hit by the internal armed conflict, where a significant percentage of the uprooted and demobilized population are living. This approach will help to spread the benefits of the peace agreements and to promote genuine reconciliation in those areas. It is important that the implementation of this strategy should be fully compatible with the priority attention to uprooted and demobilized population groups established by the commitments in the peace agreements, especially given the precarious conditions in which those populations are currently living and the need to strengthen governance.

105. At the Government's request, the meeting of the Consultative Group planned for February 2001 will be held in Guatemala in October 2000. This meeting will be of fundamental importance in providing an opportunity for the international community, duly coordinated, to renew its political support and reiterate its willingness to provide technical and financial cooperation for a detailed, prioritized programme to revitalize the peace process. This requires that the three branches of government do their best to move ahead in complying with central commitments of the peace agreements, such as the implementation of the measures resulting from the Fiscal Pact, and in formulating viable, financed, budgeted and time-based proposals pursuant to the peace agreements.

106. At this decisive stage of the peace process, I wish to call upon the authorities of State bodies, the political parties and the various trade union, indigenous,

women's, business, peasants', academic, human rights and other organizations of civil society to redouble their efforts for the building of a culture of dialogue and the consolidation of peace in Guatemala.

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Fifty-fifth session
Item 115 of the provisional agenda*
Right of peoples to self-determination

Right of peoples to self-determination

Report of the Secretary-General

1. The right to self-determination is defined as a fundamental human right in the Charter of the United Nations, the two principal human rights covenants, the Declaration on the Right to Development, and other international instruments and declarations.[1]

2. In its resolution 54/155 of 17 December 1999, the General Assembly, inter alia, requested the Commission on Human Rights to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression and occupation, and requested the Secretary-General to report on this question to the Assembly at its fifty-fifth session under the item entitled "Right of peoples to self-determination".

3. The present report covers activities carried out between April 1999 and June 2000.

4. At its fifty-sixth session, the Commission on Human Rights considered agenda item 5, entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation". An account of the Commission's consideration of the items is contained in the Commission's report.[2]

5. Under agenda item 5, the Commission, on 7 April 2000, adopted three resolutions: resolution 2000/2, on the question of Western Sahara; resolution 2000/3, on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination; and resolution 2000/6, on the situation in occupied Palestine.

6. The Commission noted, in resolution 2000/2, that the implementation of the settlement plan was progressing satisfactorily and reiterated its support for a free and impartial referendum in Western Sahara on self-determination. It also urged the Government of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Rio de Oro to implement the Secretary-General's package of measures relating to the identification of voters, the appeals process and the revised implementation timetable.

7. In resolution 2000/3 the Commission welcomed the report of the Special Rapporteur on the use of mercenaries (E/CN.4/2000/14), which highlighted the need to carry out studies and disseminate information on the adverse effects of mercenary activities on human rights, particularly on the exercise of the right of peoples to self-determination. The Commission, noting that mercenary activities had increased and taken new forms, decided to convene a workshop on traditional and new forms of mercenary activities as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, to be held prior to the fifty-fifth session of the General Assembly.

* A/55/150.

00-55189 (E) 280800

8. In resolution 2000/4, the Commission reaffirmed the right of the Palestinians to self-determination, "including the option of a State".

Notes

[1] General Comment 12 of the Human Rights Committee states that the realization of the right to self-determination is essential to the effective guarantee and observation of individual human rights (see HRI/GEN/1/Rev.3).

[2] To be issued as *Official Records of the Economic and Social Council, 2000, Supplement No.* ___ (E/2000/23; E/CN.4/2000/__).

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Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Strengthening the rule of law

Report of the Secretary-General**

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* A/55/150.

** In accordance with General Assembly resolution 54/248, sect. C, para. 1, this report is being submitted on 20 July 2000 so as to include as much updated information as possible.

00-55195 (E) 300800

I. Introduction

1. In its resolution 53/142 of 9 December 1998, the General Assembly, bearing in mind that the Office of the United Nations High Commissioner for Human Rights remained the focal point for coordinating system-wide attention to human rights, democracy and the rule of law, welcomed the deepening of the ongoing cooperation between the Office of the High Commissioner and other relevant bodies and programmes of the United Nations system, with a view to enhancing system-wide coordination of assistance in human rights, democracy and the rule of law and, in that context, took note of the cooperation between the United Nations Development Programme (UNDP) and the Office of the High Commissioner in providing technical assistance, at the request of States, in the promotion of the rule of law. In the same resolution, the Assembly encouraged the United Nations High Commissioner for Human Rights to continue the dialogue between her Office and other organs and agencies of the United Nations system, taking into account the need to explore new synergies with a view to obtaining increased financial assistance for human rights and the rule of law; and requested the Secretary-General to submit a report to the Assembly at its fifty-fifth session on the implementation of the resolution.

2. In its resolution 1999/74, the Commission on Human Rights encouraged the High Commissioner to pursue consultations between her Office and other organs and agencies of the United Nations with a view to obtaining increased financial assistance for human rights and the rule of law.

II. Assistance provided by the Office of the United Nations High Commissioner for Human Rights

3. In accordance with General Assembly resolutions 48/141 of 20 December 1993, 52/125 of 12 December 1997 and 53/142, the High Commissioner has principal responsibility within the United Nations system for providing advisory services and technical and financial assistance with a view to supporting actions and programmes in the field of human rights and that the Office of the High Commissioner is the focal point for coordinating system-wide attention to human rights, democracy and the rule of law.

4. The technical cooperation programme of the Office of the High Commissioner has been developed to respond to requests from States seeking to strengthen the rule of law and, thereby, to secure the effective enjoyment of all human rights. The programme content remains focused mainly on the elements in the framework for strengthening the rule of law set out in the report of the Secretary-General to the General Assembly at its forty-ninth session (A/49/512, para. 5).

5. The number of States requesting assistance for fortifying and consolidating the rule of law has increased significantly in recent years and can be considered an indicator of the growing awareness of the importance of the rule of law. As at 30 April 2000, there were 47 ongoing technical cooperation projects administered by the Voluntary Fund for Technical Cooperation in the Field of Human Rights, at least 30 of which were providing support to activities related to strengthening the rule of law.

III. Programme content

6. The technical cooperation programme supports Governments, at their request, in promoting and protecting all human rights at the national and regional levels by incorporating international human rights standards into national laws, policies and practices and by building sustainable national capacities to implement those standards and ensure respect for human rights.

7. The programme is offering assistance in a wide range of areas to some 30 different countries. The assistance includes support for reporting human rights treaties; the development and implementation of national plans of action; the establishment and strengthening of national institutions; assistance for constitutional and legislative reform, administration of justice, elections and national parliaments; training for police, armed forces and prison personnel; and the promotion of human rights education. Increasingly non-governmental organizations and civil society organizations are involved both in implementation and in receiving training.

IV. National human rights institutions

8. The technical cooperation programme and its national partners have long recognized that such institutions are capable of making a valuable contribution to the proper functioning of the rule of law, complementing with expertise and constitutionally mandated vigilance the crucial roles of the judiciary, the legislature, the executive and non-governmental organizations.

9. Activities carried out by the Office of the High Commissioner in support of national institutions can be divided into two areas: providing practical advice and assistance to those involved in the establishment of new national institutions or the strengthening of existing ones; and facilitating the holding of international and regional meetings of national institutions. In the past year, for example, assistance was provided for the holding of regional forums in Asia and the Pacific and a global meeting in Morocco.

10. Establishing an appropriate constitutional or legislative foundation for any new national human rights institution is of primary importance. It is essential that the institution is able to respond adequately to the needs of the community that it is to serve. In the period 1999-2000, the Office of the High Commissioner provided advice, assistance and information, upon request, to 30 Governments in the process of establishing national human rights institutions. Advice or material was provided to 10 recently established national human rights institutions.

11. The Office of the High Commissioner continues to provide assistance to recently established institutions. The technical cooperation project with the Moldovan Centre for Human Rights continued, as did the multiparty initiative with the Georgian Public Defender's Office. A technical cooperation project relating to the Ugandan Human Rights Commission is well under way. In addition, a technical cooperation initiative regarding the Madagascar National Commission on Human Rights is proceeding as planned. The Office of the High Commissioner also continues to act as the secretariat for the work of the International Coordinating Committee of National Human Rights Institutions and therefore works with many of its members.

V. Programme methodology

12. Projects are formulated and implem broadest possible participation of all society, including the judicial, legislative branches of Government, as well as civi national institutions, and in close coopera United Nations entities present in concerned. Assistance may take the form advisory services, training courses, wo seminars, fellowships, grants or info documentation.

13. The technical cooperation pro developed through established proced include the following main phases:

(a) *Needs assessment*. The needs phase includes an examination of t particular institutional needs, priorities a for human rights, democracy and the rule into account recommendations by th United Nations human rights organs and assessment team meets with all interested governmental and non-governmental, Nations and other agencies and organizat in activities related to human rights and c relevant documentation and legislation g resulting report contains an analysis and a the identified needs and the proposals fo provides a framework for developing po technical cooperation activities.

(b) *Project formulation*. The form technical cooperation project is an outc priorities identified and the availability Through dialogue the project is define limits of the programme's mission, objectives, priorities and financial re additional information is necessary discussions are needed to refine the proje project formulation mission may take p formulation entails clearly identifying t human rights context and background; rights needs or problems to be addresse offered by the project; target beneficiarie indirect); and long-term and immediate the project, results, output, activities, input also entails identifying and developing i measuring the impact;

(c) *Project monitoring*. Project monitoring is carried out throughout the duration of the project by desk officers, the Project Review Committee and periodic monitoring missions involving broad consultations with all national and international counterparts. Project monitoring involves an examination of the strategy pursued in the project and ensures that any adjustment needed to meet the project objectives and the human rights needs of the country will be made;

(d) *Project evaluation*. Once a project is completed, an evaluation is carried out by independent consultants, who assess the effectiveness, efficiency and sustainability of the project activities and results. That is to ensure that the lessons learned are applied in the design and implementation of future projects, both in the country concerned and elsewhere.

VI. Selected country examples

14. The technical cooperation projects of the Office of the High Commissioner in South Africa and in the West Bank and the Gaza Strip illustrate the efforts made to strengthen the rule of law. Since August 1997, the Office of the High Commissioner has been providing assistance to the Government of South Africa aimed at strengthening the rule of law in order to support the country's transition process. The project provides assistance to the South African Human Rights Commission for the development and implementation of a national plan of action. Activities include the provision of specialized training and advice to the South African police, the correctional services, the defence force, magistrates and prosecutors and the judicial inspectorate, as well as the provision of training and assistance on reporting under the human rights treaties to a large number of concerned departments, non-governmental organizations and public institutions.

15. Since 1994, the Office of the High Commissioner has worked in the West Bank and the Gaza Strip to support the efforts of the Palestinian Authority in a broad range of activities related to strengthening the rule of law. The project is aimed at the development of a national policy on the rule of law, including the development of a national plan of action, the strengthening of rule of law institutions and the development and consolidation of Palestinian laws. Activities include the provision of the following: training for law enforcement personnel, civil servants of the Palestinian Authority and political parties; advisory services on law reform in the areas of prison, judicial authority, juvenile justice and prosecutorial legislation; and assistance to the Palestinian Independent Commission for Citizens' Rights. The project is being carried out in close cooperation with the Palestinian Authority, local non-governmental organizations, the Palestinian judiciary, the Palestinian Independent Commission for Citizens' Rights and other partners.

VII. Increasing system-wide coordination

16. In an effort to bridge the gap between the increasing number of requests for technical assistance and the limited resources, the High Commissioner is undertaking to integrate human rights throughout the work of the United Nations system, thus involving United Nations partners in technical cooperation projects in areas relating to human rights, democracy and the rule of law.

17. Following the recommendation of the Secretary-General in his report entitled "Renewing the United Nations: a programme for reform" (A/51/950 and Add. 1-7), the High Commissioner, in cooperation with agencies and programmes of the United Nations system, undertook an analysis of technical assistance provided by United Nations entities in areas related to human rights in order to formulate proposals for the improvement of both the complementarity of action and responses to the needs of Member States.

18. The analysis led to the following central conclusions: the interest of Member States in technical assistance in areas related to human rights continues to increase, thus requiring a system-wide response; an increasing number of agencies and programmes offer assistance related to human rights, including in the areas of sustainable development, the rule of law and good governance; all agencies and programmes share the conviction that technical cooperation in the field of human rights requires close system-wide cooperation, exchange of information and expertise and more systematic coordination in order to fully utilize the existing potential.

19. According to the analysis, the High Commissioner should convene workshops at the

regional level involving United Nations partners active in human rights. The workshops should: develop policies and practical measures to ensure a consistent approach to human rights; develop an appropriate methodology of work and cooperation; and increase capacities to provide human rights assistance, to make more efficient use of available resources and to provide effective responses to actual needs on the ground. Through the inter-agency process, a programme for the implementation of the recommendations has been developed.

20. There has been particularly close cooperation with UNDP, based on a memorandum of understanding concluded in March 1998. The joint programme on human rights strengthening, initiated in April 1999, is aimed at testing guidelines and methodologies and identifying best practices and learning opportunities in the development of national capacities for the promotion and protection of human rights and in the application of a human rights approach to development programming. The programme on human rights strengthening is also the first practical pilot programme to test the role of the Office of the High Commissioner as a catalyst in integrating human rights into the work of the United Nations system. Activities are currently under way or proposed in Brazil, Cape Verde, the Dominican Republic, Jordan, Lithuania, Mongolia, Nepal, the Republic of Moldova and Ukraine.

21. At the same time, the Office of the High Commissioner is working with other agencies and programmes in the United Nations system to integrate attention to human rights, democracy and the rule of law in the processes and instruments developed in the context of the United Nations reform and, in particular, the United Nations Development Assistance Framework and the common country assessment. The Office of the High Commissioner is thus increasingly acting as a catalyst by helping other United Nations agencies and programmes to include in their work attention to institution-building in the area of the rule of law. The Office of the High Commissioner also seeks to serve as a conduit between the United Nations human rights bodies that are based on international treaties and the Charter of the United Nations on the one hand and the operational agencies and programmes on the other. In that way, system-wide capacities for furthering the maintenance of the rule of law are being enhanced while continuing to be linked to and based upon United Nations standards and norms.

VIII. Policy

22. The policy of the High Commissioner is to give priority to assisting developing countries (in particular the least developed countries), focusing on countries in transition to democracy. Recommendations made by the United Nations human rights treaty bodies, by the Commission on Human Rights and its mechanisms, including the representatives of the Secretary-General, the special rapporteurs on thematic or country situations and the various working groups, and by the Board of Trustees of the Voluntary Fund for Technical Cooperation in the Field of Human Rights are also important factors in determining possible assistance to be provided by the Office to Member States at their request.

23. Assistance in the area of the rule of law features prominently among the technical cooperation activities, as do the integration of human rights within the United Nations system, the advancement of economic, social and cultural rights and promotion of the right to development.